

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report Summary

TO: Members of the Judicial Council

FROM: Administrative Office of the Courts
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DATE: October 18, 2006

SUBJECT: FY 2006–2007 Trial Court Budget Allocations, Fund Balance Policy,
and Delegation of Authority (Action Required)

Issue Statement

The Judicial Council has the authority to approve the allocation of funding to the trial courts. This report presents recommendations for remaining allocations of fiscal year (FY) 2006–2007 State Appropriations Limit (SAL) adjustment funding. The report also presents for consideration allocation of the screening station equipment replacement funding included in the Budget Act of 2006 (Stats. 2006, ch. 47), and a proposed Fund Balance Policy. Finally, there are recommendations for the delegation of authority and responsibility to expend funds pursuant to Government Code section 68085 and to direct the Administrative Office of the Courts to develop related policies, procedures, and criteria.

Summary of Recommendations

The following recommendations are made by Administrative Office of the Courts (AOC) staff. The Trial Court Budget Working Group joins in on recommendations 4-12. It is recommended that the Judicial Council:

1. Approve the allocation of up to \$24.3 million in ongoing SAL security funding, plus an additional \$7.1 million in ongoing security funding from Los Angeles County's increase in the Maintenance of Effort payment, to the courts as indicated in columns A, B, and B1 of Attachment 1.

2. Approve, as in FY 2005–2006, immediate allocation to those courts with confirmed changes in mandatory security costs, and set aside funding for those courts that have estimated changes, until such time as their cost needs have been confirmed.
3. In the event that after allocation of funding to address mandatory security costs and security costs for facilities opening or transferring during the period July 1, 2006 through September 30, 2007, there is remaining ongoing SAL security funds, direct the Working Group on Court Security to meet to develop recommendations to be presented to the Trial Court Budget Working Group and, ultimately to the Judicial Council at its February 2007 meeting, as to how these funds should be allocated to include such things as bringing the courts closer to security funding standards. Also direct the Working Group on Court Security to develop recommendations for allocation of the available one-time security funding for one-time expenses for such things as radios and related costs, and other equipment.
4. Approve the following criteria, in addition to the previously approved criteria, for review of requests for funding for staffing and operating costs for new facilities:
 - Construction-related costs, such as contractors' fees, contingency fees, or costs to build or remodel a facility are not recommended as they are not related to the staffing and operating of new or transferring facilities, but instead are capital outlay costs.
 - Requested funding for optional items such as art work, employee microwaves, and refrigerators are not recommended, given the FY 2006–2007 constraints for this funding.
5. Approve the allocation of \$720,666 in one-time funding (column C) and \$461,605 in ongoing funding (column D), annualized to \$958,017 in FY 2007–2008 (column E) for costs of facilities opening or transferring between July 1, 2006 through September 30, 2007. In addition, approve allocation of \$117,729 in ongoing annualization of the approved funding for operational costs related to facilities that opened or transferred in FY 2005–2006 (column F), from the \$1.3 million in FY 2006–2007 SAL funding already designated by the Judicial Council for this purpose. Also approve the allocation of \$4.188 million to address one-time operational costs resulting from new or transferring facilities. This funding will be from available one-time funding in the Trial Court Trust Fund (column C). These allocations are indicated in Attachment 1.
6. Approve deferral of allocation of funding for security for new facilities opening during the period July 1, 2006 through September 30, 2007, until the December 1, 2006 Judicial Council meeting.

7. Approve allocation of the RAS component of the workload growth and equity funding, in the amount of \$5.569 million, to the trial courts, as indicated in column G of Attachment 1.
8. Approve providing one-time funding from the TCTF, as indicated in column H of Attachment 1, to those courts that will receive new judgeships in FY 2006–2007 and are more than 10 percent underfunded to bring them up to the 10 percent underfunded level and direct that these one-time funds can only be used for one-time costs or for costs that would support the implementation of new judgeships, such as early hiring of new staff for these judges, and training.
9. Establish the maximum reimbursement cost for replacing an x-ray machine at \$32,000 and a magnetometer at \$5,000, including the cost of maintenance.
10. Replace all x-ray machines and magnetometers that were purchased and/or manufactured in 1998 or earlier with the following exceptions:
 - equipment that is indicated as being in storage (not used),
 - equipment that is back-up (not used regularly and therefore not a priority for the first year of replacement),
 - magnetometers that will be replaced through the new entrance screening funding (one of the 97 stations funded from the Budget Act of 2006), and
 - magnetometers at multiple entrances in a facility that will no longer be needed when a court receives funding for a new entrance screening station through the Budget Act and the court closes all but one entrance in a facility.
11. Approve the list of equipment to be replaced in FY 2006–2007 from the replacement funding in the 2006 Budget Act, as indicated in Attachment 2. The maximum allocations to the specific courts are indicated in columns I and J of Attachment 1.
12. Approve the Fund Balance (Reserve) Policy as indicated in Attachment 3.
13. Delegate to the AOC the Judicial Council’s responsibility, authority and discretion pursuant to Government Code section 68085(a)(2)(A) to (a) authorize the direct payment or reimbursement of Allowable Costs from the TCTF or the TCIF to fund the costs of operating one or more trial courts upon the consent of the participating courts (Authorized Payment), and (b) support Authorized Payments by reducing a court’s allocation from the TCTF to the extent the court’s expenditures are reduced by the Authorized Payment and the court is supported by the expenditure.
14. Require the AOC to review, and if necessary and appropriate, amend or supplement existing policies, procedures, and criteria (which constitute policies,

procedures and criteria of the Judicial Council to the extent they apply to Government Code section 68085(a)) to provide for the administration of section 68085(a)(2)(A) in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts; and delegate to the AOC the Judicial Council's responsibility pursuant to section 68085(a)(2)(A) to provide affected trial courts with quarterly reports on Authorized Payments.

15. Authorize the AOC to make direct payments or reimbursements from the TCTF or TCIF, pursuant to Government Code section 68085(a)(2)(A), for certain court-county facilities projects that were pending on June 10, 2005, in four counties (Fresno, Merced, Orange, and Santa Cruz) and depended on the continuing availability of undesignated fee revenue that was later transferred to the state pursuant to Assembly Bill 139 (AB 139). This authority is given directly to the AOC, outside of any other policies and procedures that may apply, only to serve as an approved, alternative mechanism for making equitable adjustments in amounts previously approved by the AOC and the California State Association of Counties (CSAC) pursuant to section 68085.8(a). As provided in section 68085(a)(2)(A), the AOC is authorized to support these payments or reimbursements by reducing any of the four courts' allocations from the TCTF or the TCIF to the extent that the particular court's expenditures are reduced.

Rationale for Recommendation

Please see the rationale included for each recommendation within this report.

Alternative Actions Considered

Please see the alternatives included for each recommendation within this report.

Comments From Interested Parties

Most of the recommendations contained in this report were reviewed and considered by the Trial Court Budget Working Group at their meetings on September 27 and October 11, 2006, prior to presentation to the Judicial Council for consideration and approval.

Implementation Requirements and Costs

No additional funds are needed to implement these recommendations.

Attachments

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Previous Judicial Council Action

At its August 25, 2006 meeting, the Judicial Council allocated most of the FY 2006–2007 SAL funding to courts. For various reasons, allocation of portions of the funding was deferred to the October meeting. Three allocations based on the SAL adjustment funding are discussed in this report: (1) funding to address mandatory security costs changes, (2) trial court operating and staffing costs for new facilities opening during the period July 1, 2006 through September 30, 2007 (security and non-security costs), and (3) the Research Allocation Study (RAS) model component of the workload growth and equity funding. The amount of funding available and the proposed allocations in each of these areas are discussed in the following sections.

Remaining SAL Allocations

Mandatory security cost changes

The final SAL adjustment for FY 2006–2007 was 4.96 percent. When applied to the security budget, this resulted in an increase in ongoing security funding of \$19.987 million. There is also \$4.323 million in additional ongoing security funding that carries over from FY 2005–2006, and \$12.646 million in one-time security funding that carries over from previous fiscal years. In FY 2005–2006, all security allocations were made from security funding, i.e., no undesignated SAL funding or other undesignated funds were used to address security costs.

At its August 2006 meeting, the Judicial Council deferred allocation of the SAL funding for mandatory security costs until the October meeting because AOC staff had concerns regarding the cost information provided in a May 2006 survey completed by the trial courts and sheriffs that was designed to identify changes in mandatory costs for security services. This included changes in negotiated salary, retirement, and other benefit costs. Courts were instructed to include only existing levels of security—no new positions over the previous fiscal year. The survey form allowed for the inclusion of costs for all areas of security for which the court was paying at the time Senate Bill 1396 (Stats. 2002, ch. 1010) was enacted. The initial amount requested by courts for FY 2006–2007, above the amount provided to the courts in the previous year, was over \$44 million. This is well in excess of the amount of funding available to address mandatory security cost changes in FY 2006–2007.

Because \$44 million would represent an increase of approximately 11 percent over the FY 2006–2007 security base budget before application of SAL, and given the inconsistency of some of the data provided by courts and sheriffs, AOC staff believed that a greater level of analysis of this information was necessary. As part of this analysis, staff compared the service levels indicated in the FY 2005–2006 security cost surveys to those in the FY 2006–2007 surveys for each court. Staff also compared FY 2005–2006 salary, retirement, benefits costs paid with that included in the FY 2006–2007 survey. Based on the review performed on each court, it became clear that some courts were not submitting mid-step salary and benefits for the calculation of the funding standards.

A second set of forms was sent to all of the courts for completion that required more detailed information on salary, retirement, and benefit costs at the entry, mid, and top step. As a result of the review of the second set of forms, the mandatory funding needed from SAL has decreased. The following adjustments have led to this decrease:

- The number of FTEs from requests that were above the FY 2005–2006 service/funding levels were reduced.
- The salaries and benefits costs used to calculate funding need per the standard were reduced. Some courts used top-step salary rather than mid-step. Some

included maximum incentive pay, or included overtime in pay. Some included healthcare based on a family of four, not the actual average. Nonallowable benefits, such as retiree health, were removed. Incorrect rates for Medicare and FICA were changed.

- Implementation of the interim security equipment, and services and supplies standards based upon the lesser of the actual cost or standard, for things such as uniforms, ammunition, sidearms, etc., as approved by the Judicial Council at its August 25, 2006 meeting. Costs that were above the standards for these services and supplies items as well as those above the council approved 1.5 percent for professional services, were reduced. Vehicle costs that were above the standard were also reduced.
- All items that are not SB 1396 allowable were eliminated.
- Only allowable equipment, services, and supplies that had previously been paid for by the courts were included.
- Increases in perimeter screening, of which most, but not all, are being funded by the separate entrance screening funding from the 2006 Budget Act were removed.
- Costs for radios, radio accessories, and radio maintenance were removed, as these may be considered by the Working Group on Court Security for funding through one-time security funding in FY 2006–2007. Recommendations for allocation of the one-time funding will be brought to the council in February 2007.

In addition to the preceding adjustments, the judicial position equivalents (JPEs) for each court were updated to reflect the numbers as of July 1, 2005. In addition, the AB 1058 FTE for each court was subtracted from the JPE figure as these are not state funded positions. Staff used the same assessed judicial need (AJN) figure for each court that was used last year, except that the AB 1058 commissioner FTE was subtracted.

The September survey provided detailed salary, retirement and benefit information for the mid-step sheriff, sergeant, lieutenant and captains, where used in the courts. Staff confirmed by way of document provided by the court and county/sheriff web sites that the information was actually mid-step. Premium pay, health, dental, and vision were required to be an average of actual. Non-allowable costs such as retiree health care benefits were deducted.

Each court's individual analysis was sent to them prior to the Judicial Council meeting to confirm the accuracy of the analysis. To the extent that input was received prior to the meeting, it is reflected in the council report. If input is received after the council meeting, amendments will be made at that time. If a court did not submit a security survey, courts

will be funded at the lesser of actual FY 2005–2006 expenditures or the FY 2005–2006 base budget adjusted by the percentage change in the State Appropriations Limit (4.96 percent in FY 2006–2007). Where a survey includes estimated costs (either due to pending follow-up information from the courts or contract negotiations not yet being complete), the estimated increases will not be allocated until final or accurate data has been provided.

As a result of these adjustments and application of the approved standards, the security funding need above the FY 2006–2007 SAL funding amount is estimated to be within the \$24.3 million ongoing that is available. As indicated earlier in this section, there is also approximately \$12.646 million in one-time security funding available to be allocated. If, as staff anticipate, there is sufficient ongoing funding to meet the courts mandatory security costs, staff will return to the council, as indicated in recommendation 6, with recommendations to address security costs for new facilities opening or transferring during the period July 1, 2006 through September 30, 2007. If ongoing SAL security funding still remains, the Working Group on Court Security would meet to develop recommendations for review by the Trial Court Budget Working Group and ultimately the Judicial Council at its February 2007 meeting as to how to allocate these funds. Recommendations for the allocation of the remaining one-time funding would also be developed and presented at the February 2007 meeting. This funding could potentially be used to bring courts closer to the security funding standards, or for such things as costs for tasers, and the expenses of radios and associated costs for sheriff communication in the courts. Staff discussed with the Trial Court Budget Working Group, at its October 11, 2006 conference call, the detailed analysis that was being performed on each court's security needs and the recommendations that would be made to the council.

Recommendation

The staff of the Administrative Office of the Courts recommends that the Judicial Council:

1. Approve the allocation of up to \$24.3 million in ongoing SAL security funding, plus an additional \$7.1 million in ongoing security funding from Los Angeles County's Maintenance of Effort payment, to the courts as indicated in columns A, B, and B1 of Attachment 1.
2. Approve, as in FY 2005–2006, immediate allocation to those courts with confirmed changes in mandatory security costs, and set aside funding for those courts that have estimated changes, until such time as their cost needs have been confirmed.
3. In the event that after allocation of funding to address mandatory security costs and security costs for facilities opening or transferring during the period July 1, 2006 through September 30, 2007, there is remaining ongoing SAL security funds,

direct the Working Group on Court Security to meet to develop recommendations to be presented to the Trial Court Budget Working Group and, ultimately to the Judicial Council at its February 2007 meeting, as to how these funds should be allocated to include such things as bringing the courts closer to security funding standards. Also direct the Working Group on Court Security to develop recommendations for allocation of the available one-time security funding for one-time expenses for such things as radios and related costs, and other equipment.

Rationale for Recommendation

Fiscal year 2006–2007 mandatory security costs have not been finalized in all courts. Staff believes that only those courts with confirmed changes should be funded at this time. Rather than providing funding for speculative increases that may in the end be overestimated, only known increases are recommended to be funded. A substantial amount of one-time funds is available in FY 2006–2007 from previous fiscal years. If these one-time funds are not needed to address the mandatory cost changes, there are other security related costs that could be addressed using these funds.

Alternative Actions Considered

Since it now appears that mandatory security costs can be funded through available ongoing SAL security funding, no additional alternatives were considered.

Trial Court Staffing and Operating Expenses for New and Transferring Facilities

There are two Judicial Council approved budget priorities for FY 2006–2007: (1) trial court staffing and operating expenses for new facilities, and (2) self-help centers. The Legislature adopted the Supplemental Report of the 2006 Budget Act (Supplemental Report Language) which includes language which specifies the specific allocation of SAL funds in FY 2006–2007. The Supplemental Report Language, which states legislative intent but does not impose legal requirements, specified that the total amount that can be provided from the SAL adjustment for both of these Judicial Council priority areas in FY 2006–2007 could not exceed \$5.0 million in total. Based on commitments made during the legislative budget process, AOC staff recommended to the council at its August 25, 2006 meeting that a maximum of \$1.3 million in ongoing funding be provided for staffing and operating expenses for new and transferring trial court facilities and that a minimum of \$3.7 million in one-time and ongoing funding be provided for self-help. At the August 2006 meeting, the council approved these recommendations and an allocation of \$3.7 million in ongoing funding for self-help.

Consideration of the trial court staffing and operational expenses for new and transferring facilities was deferred to the October 2006 council meeting due to various reasons. For review purposes, the forms submitted by the court were divided into security funding requests and staffing and operational (non-security) funding requests. The staffing and operational funding requests will be discussed first.

Staffing and Operating Expenses for New and Transferring Facilities

This item was also a Judicial Council trial court budget priority in FY 2005–2006. At the August 2005 meeting, the council approved the following criteria for review of these requests:

- All costs that either were unrelated to the new or transferring court facility or were already paid by the court prior to the opening of the new facility or the transfer of the new facility are not recommended.
- All costs submitted should be beyond the courts' ability to pay within their existing resources.
- Rule 810 unallowable charges were not to be considered, with the exception of cases where historically the county has never paid for these costs.
- Undesignated reserves for Trial Court Trust Fund and Non-Trial Court Trust Fund as of the third quarter Quarterly Financial Statement (QFS) were evaluated to determine if one-time costs could be absorbed.

In the current year, a total of 20 courts submitted requests for 29 facilities scheduled to open during the period July 1, 2006 through September 30, 2007. Of these submissions, 15 were for facilities that are transferring to the state. The survey instructions advised the courts that only costs allowable under rule 810 of the California Rules of Court were permitted and that requests should be for unfunded costs associated with opening and operating a new court facility. If funding for positions was requested, courts were instructed to complete a workload analysis form to show justification for the positions. Courts were also instructed to identify the value of offsetting resources such as staff and existing furniture or equipment that could be transferred from an existing facility to the new one.

The total amount requested in FY 2006–2007 for one-time expenditures is \$7.252 million and the amount for ongoing costs is \$2.242 million. The number of full-time equivalent (FTEs) positions requested was 11. The total funding available for allocation is limited to \$1.3 million in ongoing funding, in accordance with the Supplemental Report Language, as mentioned earlier in this report.

AOC Finance Division staff coordinated with staff of the Office of Court Construction and Management (OCCM) and Information Services Division on these requests. The courts were contacted directly where questions arose relating to specific facilities or items being requested. Due to the cap that was imposed on the funding that could be allocated from SAL for this purpose, staff was required to look even more closely at each item requested. Based on this review, two additional criteria were developed and are recommended for approval by the council for this process:

- Construction-related costs, such as contractors' fees, contingency fees, or costs to build or remodel a facility are not recommended as they are not related to the staffing and operating of new or transferring facilities, but instead are capital outlay costs.
- Requested funding for optional items including art work, employee microwaves, and refrigerators, are not recommended, given the FY 2006–2007 funding constraints for this funding.

Staff also looked at each requesting courts' fund balance (reserves) to determine the courts' ability to address one-time costs. After preliminary recommendations were determined, Finance Division staff and the appropriate Regional Administrative Director contacted the courts to discuss the preliminary staff recommendations and the process involved in reviewing the requests.

The additional criteria and the staff recommendations were reviewed by the Trial Court Budget Working Group at its meeting on September 27, 2006. At the working group's request, the AOC's Finance Division staff recommendations and analysis were provided to the AOC's Regional Administrative Directors for their review. These recommendations were then presented to the Trial Court Budget Working Group at its October 11, 2006 conference call for consideration. The working group approved the recommendations for consideration by the council.

In addition to the operating costs for new and transferring facilities opening during the period July 1, 2006 through September 30, 2007, \$117,729 in ongoing costs resulting from the annualization of the FY 2005–2006 funding of new facilities remain unfunded. The recommendations below address all of these costs.

Recommendation

The Trial Court Budget Working Group and staff of the Administrative Office of the Courts recommend that the Judicial Council:

4. Approve the following criteria, in addition to the previously approved criteria, for review of requests for funding for staffing and operating costs for new facilities:
 - Construction-related costs, such as contractors' fees, contingency fees, or costs to build or remodel a facility are not recommended as they are not related to the staffing and operating of new or transferring facilities, but instead are capital outlay costs.
 - Requested funding for optional items such as art work, employee microwaves, and refrigerators are not recommended, given the FY 2006–2007 constraints for this funding.

5. Approve the allocation of \$720,666 in one-time funding (column C) and \$461,605 in ongoing funding (column D), annualized to \$958,017 in FY 2007–2008 (column E) for costs of facilities opening or transferring between July 1, 2006 through September 30, 2007. In addition, approve allocation of \$117,729 in ongoing annualization of the approved funding for operational costs related to facilities that opened or transferred in FY 2005–2006 (column F), from the \$1.3 million in FY 2006–2007 SAL funding already designated by the Judicial Council for this purpose. Also approve the allocation of \$4.188 million to address one-time operational costs resulting from new or transferring facilities. This funding will be from available one-time funding in the Trial Court Trust Fund (column C). These allocations are indicated in Attachment 1.

Rationale for Recommendation

Because the SAL funds available for allocation for the budget priority for this year are quite limited and unallocated one-time funds are available in the Trial Court Trust Fund (TCTF), it seems appropriate to maximize the SAL funds by using them solely to address ongoing costs. Also, discretionary costs such as artwork and furnishings for employee breakrooms are not recommended for funding given the limited SAL funding available for this purpose. These are optional items that could be furnished from a court's own one-time fund balance or possibly through donation.

Alternative Actions Considered

One alternative considered was to exclude costs for facilities transferring to the state from this process. There was concern that these costs alone could consume the entire amount of funding available for this priority cost area. This option is not recommended because in some of these facilities the county has been paying for certain types of costs that will continue after the transfer occurs, but which will become the responsibility of the courts, such as the cost of janitorial services in some cases. The original purpose for including transferring facilities in the process was so that the impact of the transfer would not put the court in a worse financial position.

Security Costs for New Facilities

In FY 2005–2006, the Judicial Council directed that approved costs for security for new facilities for that year be funded solely from security funding, i.e., other non-security and/or non-allocated TCTF funding could not be used. Because the FY 2006–2007 allocations to address mandatory security costs were not known at the time of the August 25, 2006 council meeting and the amount of funding available, if any, for security costs for new facilities had not yet been determined, the council approved deferral of allocation of funds for this priority until the October 20, 2006 meeting.

A total of 16 court systems requested funding for security costs for 21 new or transferring facilities opening or transferring during the period July 1, 2006 through September 30, 2007. Although only instructed to submit costs related to new entrance screening stations,

several courts submitted requests for security staff to support holding cells and control rooms, supervise staff, handle internal security, and to address security for other than normal business hours. Courts were informed that the security funding standards for their courts would be applied to the requested positions. Some courts requested funding for one-time equipment costs for basic entrance screening equipment, such as X-ray machines, magnetometers, and hand-held wands. These items were included in the allocated funding for this process last year. A few courts requested other items including cameras, access card systems, remote control door locks, and radio communications infrastructure. These are not the types of equipment that have previously been funded through this process. At its August 2005 meeting, the council approved referral of requests for these types of items to the AOC's Emergency Response and Security unit to determine the appropriateness of the request and for possible funding through its grant program.

A number of courts that requested staffing and one-time costs for entrance screening stations for new or transferring facilities are included in the list of 97 facilities to receive funding from the Budget Act of 2006 to establish new entrance screening stations. The requests for funding for screening stations for these courts were not considered in this recommendation for new facilities as the funding should more appropriately be allocated from the new station BCP funding.

Because these funds are not needed yet for this year as the facilities have not yet opened, the numbers are still changing, and the amount of ongoing security funding to address these costs is not yet known, staff recommend that allocation of security funding for new facilities be deferred to the December 2006 Judicial Council meeting by which time the amount of available security funding that can be used for this purpose should be known.

Recommendation

Staff of the Administrative Office of the Courts recommend that the Judicial Council:

6. Approve deferral of allocation of funding for security for new facilities opening during the period July 1, 2006 through September 30, 2007, until the December 1, 2006 Judicial Council meeting.

Rationale for Recommendation

Staff anticipate that a few of the mandatory security cost amounts for the courts will change as they are verified by AOC staff with the courts and sheriffs. In order to determine the appropriate amount to allocate for security positions for new facilities, the mid-step costs must be known. In addition, most of the facilities for which the requests were submitted are either not yet open or have not yet transferred to the state. Waiting until December to provide the recommendations will have little effect on the timing of allocations as funding will not be allocated until equipment is purchased and entrance screening staff in place.

Alternative Actions Considered

Staff considered making allocation recommendations at this time; however, until the amount needed for mandatory security costs has been more firmly determined for all courts, it appears reasonable to defer making these allocation recommendations.

RAS funding

Background

In FY 2005–2006, the Judicial Council approved use of the workload growth and equity component of the SAL adjustment to address growing resource needs in courts with growing workload, caused by an increase in specific types of filings and filings that have become more complex and require more proceedings, resulting in some courts being under-resourced compared to other courts of similar size.

In FY 2005–2006, the entire adjusted workload growth and equity percentage of SAL was applied to the trial court base budget (excluding security), resulting in an amount of funding—\$13.86 million—that was used to address funding needs for the most under-resourced courts. The methodology used to identify under-resourced courts used the Resource Allocation Study (RAS) model, which was developed by the AOC’s Office of Court Research, in consultation with the National Center for State Courts and a working group composed of court executives from 15 superior courts. Last year, this process provided additional SAL funding to 28 relatively under-resourced courts.

In the current year, consistent with Supplemental Report Language adopted by the Legislature in 2006, the Judicial Council modified this process. Instead of using the entire amount of funding derived by applying the adjusted workload growth and equity percentage to the trial court base budget (excluding security), the workload growth and equity percentage was divided into two even subcomponents—RAS funding and Pro-rata Growth funding. The funding available from SAL in FY 2006–2007 based on the application of the adjusted workload growth and equity percentage is \$11.138 million. At the August 25, 2006 meeting, the council approved allocation of the Pro-rata Growth funding to all courts based on the percentage they represent of the total annual statewide trial court funding allocation. The council also approved using the RAS model to allocate the remaining half of the workload growth and equity funding, or \$5.569 million. However, the council approved deferral of allocation of the RAS component of the funds at that time for the following reasons: Senate Bill 56, the new judgeship legislation, which had implications for ongoing funding in many courts, had not yet been enacted; some courts had not yet submitted their Schedule 7A for FY 2006–2007, which is used in the RAS model for salary and benefit cost information; decisions were still being made regarding ongoing supplemental funding for administrative infrastructure; and methodology refinements to the RAS model were being considered and developed. Recommendations for allocation of these funds are presented in this report.

In prior discussions of the RAS model and its use in allocating the workload growth and equity funding, various court executives and members of the Trial Court Budget Working Group suggested that AOC staff look into the potential impact of particular factors on the model. To address these concerns, AOC staff looked into the issue of the impact of facilities upon the need and use of supervisors and managers, and a comparison of the use of cost-of-labor (which was used in the RAS model last year) vs. cost-of-living as an index for establishing average cost of salary and benefits. The review of facility size resulted in the inclusion of a small facility adjustment in the RAS model. The analysis of cost-of-labor vs. cost-of-living did reflect some differences for some courts, although this difference is being mitigated by an adjustment discussed below.

The methodology used for the calculation of the RAS portion of the workload growth and equity funding was similar to that used in FY 2005–2006. A few changes have been made and will be highlighted in the description in the next section of the report.

Methodology

The RAS model computes a projected level of staffing required to process each court's annual level of weighted filings. The first change to the methodology is to include an adjustment to the projected staffing that takes into consideration the size of facilities in which the staff work and the impact on the need for supervisors/managers for small facilities.

Staff reviewed position data related to facilities based upon distance of facilities from each other, the number of facilities a court has, and the size of facilities. Based upon this review of the available data, staff were not able to detect differences between courts based upon the number of facilities a court had, or the relative dispersion of a court's facilities. However, after reviewing data related to the number of supervisors and managers at different sizes of facilities, staff did identify that a significantly higher average of supervisors and managers were needed at small facilities (facilities containing 4 to 16 FTEs) compared to other sized facilities. Based upon this information, an adjustment has been computed which provides a slightly higher level of managers and supervisors based upon the court's percentage of staff in small facilities. This adjustment resulted in an overall increase of 41.5 FTEs for purposes of the RAS model calculation. The RAS model FTEs are then used as a metric to identify under-resourced courts, based on the following:

The actual salary and benefit cost for each court has been discounted by a cost-of-labor factor for each county, as well as by an adjustment based upon a comparison of the average cost of salaries and benefits for similarly sized courts. An average cost for each of the four court clusters was determined. A change in the process this year was to not reduce a court's average salary and benefit cost if it was above the average for the cluster, as was done last year. This change reflects the fact that courts have inherited salary and benefit structures from their county which may be in high cost areas. Given a court's

limited ability to reduce these costs, reducing personal services costs for courts for purposes of the RAS computation was not reflective of a court's ability to manage these costs. No longer reducing the computed costs for courts with higher than average salary and benefit structures resulted in the computed percentage of funding need being higher for many courts than it would have been if a downward adjustment had been made. Staff compared the results of applying this "upward adjustment only" approach utilizing both the cost-of-labor and the cost-of-living indexes and determined that the index used made relatively little difference overall and did not impact the identification of the courts that were determined to be under-resourced. The adjusted average salary and benefit amount for each court is then multiplied by the RAS FTEs projected for each court, deriving a projected cost of services.

Another modification to last year's methodology is to include the charges each court received for statewide infrastructure initiatives in the RAS model's projected costs, since these are primarily new costs that were not historically part of each court's base. The total projected cost is then compared to each court's base budget, which includes each court's base FY 2006–2007 TCTF allocation, not including security funding and other minor adjustments. Also included in the allocations is the ongoing supplemental funding that various courts received to assist them in addressing their administrative infrastructure charges, and the FY 2006–2007 allocations approved by the Judicial Council in August 2006.

A further change from last year is to include in the FY 2006–2007 base allocations the full year funding for new judgeships for those courts that will receive one or more of the 50 new judgeships. While courts receiving new judgeships funding will only receive one month of funding in FY 2006–2007, for purposes of RAS model calculation of funding need, the ongoing base funding increase, staff believe, is appropriate. However, because use of the full annualized value of new judgeships funding means, in the proposed RAS model allocation, that some under-resourced courts will get a smaller or no allocation of RAS model workload growth and equity funding than they otherwise would have, AOC staff and the Trial Court Budget Working Group recommend that those courts that would have received greater RAS allocations except for being offset by new judgeships, be provided some relief in the current year. At the meeting on October 11, 2006, staff and the working group discussed this topic and proposed that one-time funding from available TCTF reserves be allocated to those courts that will receive new judgeships that are more than 10 percent underfunded, in an amount to bring them to 10 percent underfunded. This adjustment is not to exceed the amount of annualized new judgeships funding each court will receive, multiplied by 7/12ths to reflect the fact that only 7 months will effectively remain in the fiscal year by the time this funding begins to be dispersed. Also, the allowable funding would be offset by any judgeships or RAS funding to be allocated to the court in the current year. These courts would be directed that the funds can only be used for one-time purposes or for costs that would support the implementation of new judgeships, such as early hiring of new staff for these judges, and training.

The difference between each court's base budget and base funding represents the projected excess or deficit, based upon the model. This analysis identifies more than half of all courts as being relatively underresourced, with 25 courts appearing to have resource deficits in excess of 10 percent based upon the analytical methodology described above. Given the finite funding available from the SAL adjustment that could be allocated as an equity and workload adjustment to courts that are identified as under-resourced, staff recommends that the funding be provided to courts that exceed the 10 percent underfunded threshold. Also, in order to ensure that the courts that appear to be the most under-resourced receive a greater share of funding, a scale has been developed to provide larger percentage adjustments to courts with higher computed shortfalls.

Finally, in order to make sure that courts are not provided funding adjustments that are beyond the capacity of the court to effectively absorb in the near and intermediate terms, a constraint is included which ensures that in no case will the equity and workload growth allocation exceed 25 percent of a court's current base funding.

At the direction of the Trial Court Budget Working Group at its meeting on September 27, 2006, staff ran the RAS model at both the -10 percent and -5 percent underfunded thresholds. On October 11, 2006, the Trial Court Budget Working Group met by conference call and reviewed the results of running the model at the two different limits. The working group and staff agreed to recommend that the threshold remain at the -10 percent underfunded level for FY 2006–2007.

Recommendation

Administrative Office of the Courts staff and the Trial Court Budget Working Group recommend that the Judicial Council:

7. Approve allocation of the RAS component of the workload growth and equity funding, in the amount of \$5.569 million, to the trial courts, as indicated in column G of Attachment 1.
8. Approve providing one-time funding from the TCTF, as indicated in column H of Attachment 1, to those courts that will receive new judgeships in FY 2006–2007 and are more than 10 percent underfunded to bring them up to the 10 percent underfunded level and direct that these one-time funds can only be used for one-time costs or for costs that would support the implementation of new judgeships, such as early hiring of new staff for these judges, and training.

Rationale for Recommendation

The ultimate goal of the process described above is to determine which courts are under-resourced based upon each court's filings information, relative to other courts in the state. Since the beginning of state trial court funding, there has been concern that many courts had historically been less well funded than others. Beginning with the use of this funding

last year, many courts have been able to add staff to start addressing their workload concerns. Continued implementation of the RAS model for this purpose will provide funding to allow these courts to continue with their efforts to address longstanding needs and will provide more funding for those courts with the greatest demonstrated need.

Providing one-time funding to several courts that will receive new judgeships in FY 2006–2007 appears reasonable because these courts would have been eligible to receive more of the limited RAS funding if the funding they will receive in FY 2007–2008 for these new judgeships was not considered in the current RAS funding calculation. Recognition that the new judgeships funding will provide some courts an ongoing base increase allows the leveraging of the limited RAS model funding allocation to address a greater level of need in courts throughout the state.

Alternative Actions Considered

One alternative that was considered in this process was to include the civil assessment revenues in the calculation of the courts' FY 2006–2007 base budget. These funds are collected, sent to the state, and then sent back to each individual court. Some Trial Court Budget Working Group members believed that this funding should not be included in this calculation because including the funding had not been discussed previously and had not been considered by the Enhanced Civil Assessments Working Group. Some members believed that adding this funding to the base budget would reward those courts that have not instituted civil assessment programs.

Entrance Screening Station Equipment Replacement

At the same time that the decision was made to request funding for additional entrance screening stations for those courts that either had no stations or needed additional stations for specific facilities, AOC staff realized that there were hundreds of screening stations already in existence. The existing equipment and any new equipment that might be funded would need to be replaced due to either normal deterioration or changes in technology. The Judicial Council approved inclusion of a request in the FY 2006–2007 security BCP of funding to replace all entrance screening equipment (existing and any new that may be funded through the 2006 Budget Act). The 2006 Budget Act included \$2.286 million in ongoing funding for replacement of this equipment. The funding was requested based on \$30,000 per station on a five-year replacement cycle. This \$30,000 cost was the same as included in the BCP for the new entrance screening stations. It was anticipated to cover the cost of an x-ray machine, magnetometer, wands, taxes, delivery, installation, and maintenance.

In order to establish the screening equipment that will eventually need to be replaced with this funding, AOC staff requested that all courts provide specific information regarding their existing x-ray machines and magnetometers (walk-through devices). Response to this request appears to have been very good. Staff compiled the lists from the various courts into two separate spreadsheets – one for x-ray machines and one for

magnetometers. The information requested included the facility where the machine was located, the manufacturer, model, serial number or court ID, year of make, and comments on the condition of the equipment.

At the same time, to try to facilitate purchase of the equipment and to try to obtain a better price, AOC staff did a Request for Purchase (RFP) to seek bids from vendors of screening equipment, to establish a statewide contract for this equipment. AOC Emergency Response & Security (ERS) unit staff attended demonstrations of various equipment by interested vendors. In September, final decisions were made on a vendor for each type of equipment as follows:

Equipment	Manufacturer/Model	Unit Price (with install, delivery)	3-Year Maintenance Contract	Total Cost
X-Ray Machine	Rapiscan – RAP 515	\$20,300	\$11,100	\$31,400
Compact X-Ray Machine	Smiths Detection – Heimann 5030si	\$19,344	\$9,207	\$28,551
Magnetometer	Rapiscan – Metorex 250	\$3,425	\$1,275	\$4,700
Handheld Wand	CEIA PD140V	\$194	\$18.60 per service	\$194

Based on the costs in the contract, \$30,000 will not be sufficient to pay for the cost of a permanent x-ray machine when the maintenance contract is included. Staff believe that this contract is very important for this equipment, which will result in the need to increase the maximum replacement cost for the equipment, and lengthen the replacement cycle for some equipment from five years to six.

In order to determine how much equipment could be replaced in FY 2006–2007, staff needed to establish a new maximum replacement cost for the equipment. The costs utilized were \$32,000 for x-ray machines and \$5,000 for magnetometers. Staff then sorted the lists of existing x-ray machines and magnetometers each by year manufactured and reviewed them to develop a recommendation for which machines should be replaced in the first year. The date of manufacture or purchase of the equipment varied from oldest in 1985 to the newest in 2006. Staff also reviewed the comments on the condition of the equipment to select equipment that, due to a variety of problems, should be replaced for safety purposes earlier than it might otherwise be, based strictly on its age.

Staff recommends that all x-ray machines and magnetometers dating from 1998 and before be replaced in FY 2006–2007. There are a few exceptions, which includes (a) equipment that is indicated as being in storage (not used), (b) equipment that is back-up (not used regularly and therefore not a priority for the first year of replacement), (c) magnetometers that will be replaced through the new entrance screening funding (one of the 97 stations funded from the Budget Act of 2006), and (d) magnetometers at multiple

entrances in a facility that will no longer be needed when a court receives funding for a new entrance screening station through the Budget Act and the court closes all but one entrance in a facility.

This recommendation and the list of proposed equipment to be replaced were presented to the Trial Court Budget Working Group at its meeting on September 27, 2006. The recommendations were approved for presentation to the Judicial Council.

Recommendation

Administrative Office of the Courts staff and the Trial Court Budget Working Group recommend that the Judicial Council:

9. Establish the maximum reimbursement cost for replacing an x-ray machine at \$32,000 and a magnetometer at \$5,000, including the cost of maintenance.
10. Replace all x-ray machines and magnetometers that were purchased and/or manufactured in 1998 or earlier with the following exceptions:
 - equipment that is indicated as being in storage (not used),
 - equipment that is back-up (not used regularly and therefore not a priority for the first year of replacement),
 - magnetometers that will be replaced through the new entrance screening funding (one of the 97 stations funded from the Budget Act of 2006), and
 - magnetometers at multiple entrances in a facility that will no longer be needed when a court receives funding for a new entrance screening station through the Budget Act and the court closes all but one entrance in a facility.
11. Approve the list of equipment to be replaced in FY 2006–2007 from the replacement funding in the 2006 Budget Act, as indicated in Attachment 2. The maximum allocations to the specific courts are indicated in columns I and J of Attachment 1.

Rationale for Recommendation

Some courts have been able to replace their entrance screening equipment in the last few years, but many have not had the funding to do so. As one would expect, as this equipment ages it tends to develop more problems and need more maintenance. Some of the older equipment is no longer under warranty, or perhaps not able to be repaired as it is now obsolete. Technology for entrance screening appears to change rapidly. While a shorter replacement cycle would be ideal, it is not feasible with the amount of funding available for this purpose. Raising the maximum amount for the equipment to include a maintenance contract appears warranted as this type of equipment needs servicing to keep it working properly. The AOC's ERS unit, which has experience with entrance screening equipment, reviewed the list of equipment and determined that some of the problems

courts are having with specific pieces of equipment are serious enough that they should be replaced at this time, rather than a later year.

Alternative Actions Considered

One alternative considered was to maintain the maximum replacement cost at \$30,000. If a court wanted a maintenance contract they would have to absorb some of the cost. This might result in a court deciding that it could not afford the additional cost and forgoing the maintenance contract or purchasing cheaper, but lesser quality equipment.

Fund Balance (Reserve) Policy

The Legislature, in the Supplemental Report of the 2006 Budget Act, in Item 0250-101-0932 2(b) specified that the judicial branch policy governing trial court reserves be reported to the Legislature by September 30, 2006. In a letter sent by Tina Hansen, AOC Director of Finance to the chairpersons of the fiscal committees in both houses of the Legislature, the AOC indicated that this policy, along with other requested information, could not be submitted until November 2006, after approval by the council at its October meeting. In addition to the reserve policy, the Supplemental Report Language also requested that all court revenues, expenditures, and reserves in the prior year be reported to the Legislature by September 15, 2007.

In addition to this specific reporting, Government Code section 77203 specifies that the Judicial Council has the authority to authorize trial courts to carry over unexpended funds from one year to the next. Consistent with this provision, there is a need for a clear policy that ensures courts are able to identify resources that address statutory and contractual obligations as well as maintain a minimum level of operating and contingency funds. The proposed Fund Balance Policy provides the necessary structure to ensure that funds are available to maintain service levels for various situations that confront the trial courts including a late state budget. The purpose of this policy is to establish uniform standards for the reporting of fund balance by trial courts and to maintain accountability over the public resources used to finance trial court operations.

The proposed fund balance policy provides standardized fund balance categories that courts will use on an ongoing basis to track fund balances in the Quarterly Financial Statement (QFS) expenditure reports and Schedule 1 budget reports.

AOC staff reviewed courts' QFS and Schedule 1 reports to establish the purposes for which funds were being reserved and then developed proposed standardized categories within which these reserved funds could be reported. The proposed policy and categories were discussed with the Trial Court Budget Working Group at its meeting on July 20, 2006, and at the three Regional Budget Forums in August. The Trial Court Budget Working Group reviewed the revised policy at its September 27, 2006 meeting. The working group requested revisions to the proposed draft policy. The amended document was then presented to the working group again at its October 11, 2006 meeting for

review. The policy (Attachment 3) as revised based on the recommendations made by the Trial Court Budget Working Group, is attached to this report.

In addition, staff agreed to contact the few trial courts that currently do not identify sufficient reserves to be able to maintain the minimum operating and emergency fund balance required by the new policy. Staff will work with these courts to identify a plan or appropriate alternative related to this requirement.

Recommendation

Administrative Office of the Courts staff and the Trial Court Budget Working Group recommend that the Judicial Council:

12. Approve the Fund Balance (Reserve) Policy as indicated in Attachment 3.

Rationale for the Recommendation

The Judicial Council is directed by the Supplemental Report of the 2006 Budget Act to report to the Legislature on the fund balances in the trial courts and to provide the policy governing the fund balances. In order to report on the fund balances for all courts, there needs to be a reasonable number of uniformly used categories for reporting this information. Courts have previously labeled their reserves in an inconsistent manner that would make such a report extremely difficult to prepare and difficult to interpret. The categories included in the policy have been reviewed for completeness by many court personnel through the Trial Court Budget Working Group and the Regional Budget Forums. One adjustment made at the suggestion of the working group, was to add an “Unfunded retiree health care liability” designated fund balance as a separate designated category.

Alternative Actions Considered

Under designated fund balances in the proposed policy, all courts are required to maintain a minimum operating and emergency fund balance. The proposed policy requires 5 percent fund balance be designated of the first \$10,000,000 in prior year expenditures, 4 percent for the next \$40,000,000, and 3 percent for all expenditures over \$50,000,000. An alternative that was considered was to set a range of total expenditures and apply a set percentage for a fund balance for the total expenditures. For example, the alternative would require a court with actual expenditures between \$1 and \$10,000,000 to maintain a 5 percent operating and emergency fund balance and a court with such expenditures between \$10,000,001 and \$50,000,000 would be required to maintain a 4 percent fund balance. The alternative would mean that a court with annual expenditures of \$10,500,000 would be required to maintain an operating and emergency fund balance of 4 percent or \$420,000 while under the recommended policy, a court with this level of actual expenditure would be required to maintain a fund balance of \$520,000 (\$500,000 on the first \$10,000,000 and \$20,000 on the remaining \$500,000). The alternative would result in a requirement for a lower level of operating and emergency fund balance. Staff

and the Trial Court Budget Working Group believed that a higher balance for this specific category was needed.

Delegation of Authority Regarding Government Code Section 68085(a)

Assembly Bill 1806¹ (Bill) amended Government Code section 68085(a) to expand the authority of the Judicial Council to pay directly or reimburse a trial court or trial courts, with Trial Court Trust Fund (TCTF) and Trial Court Improvement Fund (TCIF)² money, for “any expenses related to operation of the court or performance of its functions” (Allowable Costs). *This authority does not extend to the cost of any property, good, or service for which a county is responsible.*

The Bill also eliminated the requirement that the Judicial Council obtain the written approval of the Department of Finance and, in certain cases, notify specified legislative committees before authorizing an increase in any reimbursement or direct payment of costs from the TCTF or TCIF in excess of the amount appropriated in the annual Budget Act. Finally, it deleted the restriction in section 68085(a)(1) on spending more than 30 percent of the annual TCTF apportionment during any 90-day period. Section 68085(a), as amended, is attached for reference as Attachment 4.

Section 68085(a)(2)(A) requires the Judicial Council to establish procedures that promote the effective, efficient, reliable, and accountable operation of the trial courts in connection with reimbursement or direct payment pursuant to that section of Allowable Costs.³

Recommendation

AOC staff recommends that the Judicial Council take the following action, effective as of July 12, 2006, which is the date that the Bill was chaptered:

13. Delegate to the AOC the Judicial Council’s responsibility, authority and discretion pursuant to Government Code section 68085(a)(2)(A) to (a) authorize the direct payment or reimbursement of Allowable Costs from the TCTF or the TCIF to fund the costs of operating one or more trial courts upon the consent of the participating courts (Authorized Payment), and (b) support Authorized Payments by reducing a court’s allocation from the TCTF to the extent the court’s expenditures are reduced by the Authorized Payment and the court is supported by the expenditure.

¹ Stats. 2006, ch. 69, enacted on July 12, 2006.

² Appropriations from the TCIF may not exceed 20 percent of the amount deposited in the TCIF, in accordance with Government Code section 77205(a). Pursuant to section 77205(a) and rule 6.105 of the California Rules of Court, the Judicial Council must annually allocate 80 percent of the amount of fee, fine, and forfeiture revenue (50/50 Excess Fines Split Revenue) deposited into the TCIF in any fiscal year that exceeds the amount of FY2002–2003 50/50 Excess Fines Split Revenue, as specified in section 77205(a).

³ This was a provision of existing law that was not modified by the Bill.

14. Require the AOC to review, and if necessary and appropriate, amend or supplement existing policies, procedures, and criteria (which constitute policies, procedures and criteria of the Judicial Council to the extent they apply to Government Code section 68085(a)) to provide for the administration of section 68085(a)(2)(A) in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts; and delegate to the AOC the Judicial Council's responsibility pursuant to section 68085(a)(2)(A) to provide affected trial courts with quarterly reports on Authorized Payments.
15. Authorize the AOC to make direct payments or reimbursements from the TCTF or TCIF, pursuant to Government Code section 68085(a)(2)(A), for certain court-county facilities projects that were pending on June 10, 2005, in four counties (Fresno, Merced, Orange, and Santa Cruz) and depended on the continuing availability of undesignated fee revenue that was later transferred to the state pursuant to Assembly Bill 139⁴ (AB 139). This authority is given directly to the AOC, outside of any other policies and procedures that may apply, only to serve as an approved, alternative mechanism for making equitable adjustments in amounts previously approved by the AOC and the California State Association of Counties (CSAC) pursuant to section 68085.8(a).⁵ As provided in section 68085(a)(2)(A), the AOC is authorized to support these payments or reimbursements by reducing any of the four courts' allocations from the TCTF or the TCIF to the extent that the particular court's expenditures are reduced.

Rationale for Recommendations

Pursuant to the measure, section 68085(a)(2)(B) now specifies that the "costs of operating one or more trial courts," for purposes of making a direct payment or reimbursement of costs pursuant to section 68085(a)(2)(A), are not limited to expenditures for "court operations" as that term is more narrowly defined in Government Code section 77003. For purposes of administering section 68085(a)(2)(A), therefore, Allowable Costs include expenses for the following, among other things:

- Statewide administrative and information technology infrastructure supporting the trial courts;
- Services provided to the trial courts by the AOC;

⁴ Stats. 2005, ch. 74., enacted on July 19, 2005.

⁵ Attachments 5-8 are the letters from the AOC and CSAC to each of the four courts and counties that sets forth their respective maximum, approved equitable adjustment amount. The authorized objects of expenditure in Fresno include the Juvenile Courthouse, the Selma Courthouse, and other objects as specified in, and limited by, Section 2 of that certain MOU, dated July 1, 2005, between the Superior Court of California, County of Fresno, and the County of Fresno, which MOU is included in this report as Attachment 9.

- Services or property “of any kind” lawfully contracted for by a trial court or courts; and
- Services or property “of any kind” lawfully contracted for by the AOC on behalf of a trial court or courts.

Consistent with constitutional restrictions on gifts of public funds, Allowable Costs do not include the cost of any item for which a county must pay.

The amendment of section 68085(a) gives the judicial branch independent authority to make Authorized Payments for certain essential services and items for which some courts and counties previously paid directly using local, undesignated fee revenue. AB 139 had the effect of sending this formerly undesignated fee revenue to the state. Implementation of amendments to section 68085(a) will allow the AOC to restore, subject to applicable policies and procedures, certain revenue that had been allocated for local infrastructure projects that were pending prior to enactment of AB 139. It will also give the AOC the authority it needs to correct, on a case-by-case basis, inequities that resulted from sending certain undesignated fee revenue to the state.

The expansion of the authority of the judicial branch to itself allocate available TCTF and TCIF money among the courts furthers the Judicial Council’s goal of promoting self-governance by the branch. Among other benefits, it gives the branch tools to respond effectively and efficiently to demands and opportunities that present themselves in the course of a fiscal year.

As stated above, when the Legislature amended section 68085(a), it did not amend language that requires the Judicial Council to prepare and adopt procedures to provide for the administration of section 68085(a) “in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.” The Judicial Council may delegate to the AOC, pursuant to Article VI, section 6(c), of the California Constitution, this responsibility. Delegation to the AOC also is consistent with Rule of Court 6.707. Rule 6.707 requires the AOC “to prepare and adopt” the Trial Court Financial Policies and Procedures Manual (the Manual) and sets forth a process by which trial courts and other interested parties may comment on the prospective and revised policies and procedures. Therefore, staff recommends that the Judicial Council direct the AOC to amend the Manual by preparing and adopting new procedures, or amending existing procedures, to implement section 68085(a) in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.

Effectiveness and efficiency will be further enhanced by delegating to the AOC the Judicial Council’s authority and responsibility for administering trial courts’ requests for Authorized Payments. The AOC needs sufficient authority to make decisions promptly on requests by trial courts in accordance with section 68085(a)(2)(A). Doing so requires

reviewing material that the courts submit in support of their requests, and considering their application to policies and procedures. Staff members of the AOC are uniquely suited to performing this work; they are experienced in reviewing courts' funding requests and making recommendations and decisions in consideration of applicable policies and procedures and funding priorities. Delegation of the stated authority to the AOC will, therefore, promote the Judicial Council's goals for statewide administration.

Alternative Actions Considered

Staff considered recommending that the Judicial Council establish specific policies and procedures related to implementing amendments to section 68085(a) rather than delegating this responsibility to the AOC. This, however, would not be consistent with Rule 6.707. The Judicial Council, through Rule 6.707, previously delegated to the AOC authority and responsibility to prepare and adopt trial court financial policies and procedures. Therefore, this alternative is not recommended.

Another alternative that staff considered was for the Judicial Council not to delegate to the AOC the authority to administer section 68085(a), as amended. However, the AOC is the judicial branch entity responsible for discharging administrative duties for the branch. AOC staff's proposals promote an appropriate division of responsibilities by permitting the Judicial Council to attend primarily to larger issues of policy and governance. Therefore, this alternative is not recommended.

An alternative to the AOC making direct payments for the costs of facilities projects in the Counties of Fresno, Merced, Orange and Santa Cruz was for the counties to make these payments, and, pursuant to section 68085.8, to deduct the same amount from the civil assessment and fee money that is transferred to the AOC pursuant to AB 139. Although such adjustments are authorized under section 68085.8, and CSAC the AOC had previously approved the amount of the proposed adjustments, implementation would have required CSAC's approval. CSAC decided that it wanted to memorialize the equitable adjustments in legislation instead of relying on the mechanisms in section 68085.8 (b). If the AOC were to agree to this approach, the facilities projects could be further delayed, which could significantly increase costs or lead to termination of the approved projects. Therefore, this alternative is not recommended.

Comments from Interested Parties

Most of the recommendations contained in this report were reviewed and considered by the Trial Court Budget Working Group at their meetings on September 27 and October 11, 2006, prior to presentation to the Judicial Council for consideration and approval.

Implementation Requirements and Costs

No additional funds are needed to implement these recommendations.

Attachments

FY 2006-2007 Proposed Allocation for Mandatory Security, Staffing Operating Expenses for New Facilities, RAS Funding, and Screening Equipment Replacement

Court System	Mandatory Security Costs			Staffing and Operating Costs for New Facilities (Non Security)				RAS Funding	One-Time Funding for Under- Resourced Courts Receiving New Judgeships	Maximum One-Time Funding for Magnetometers	Maximum One-Time Funding for X-ray Machines
	Confirmed	Unconfirmed	Total	One-Time	Ongoing	Annualized Ongoing	Annualization of FY 2005-06 Approved Costs				
	A	B	B.1	C	D	E	F	G	H	I	J
Alameda		2,970,940	2,970,940	15,000	169,917	293,000	-			5,000	160,000
Alpine		(4,270)	(4,270)				-				
Amador		128,926	128,926	503,563	20,221	20,221	-				
Butte		75,162	75,162		31,676	31,676	-				32,000
Calaveras		2,741	2,741				-	258,190			
Colusa		(70,862)	(70,862)				-	228,069			
Contra Costa		1,221,607	1,221,607				-			50,000	32,000
Del Norte		11,082	11,082				-				
El Dorado		100,804	100,804				-				128,000
Fresno		640,479	640,479				28,778		69,413	35,000	32,000
Glenn	82,435		82,435				-	199,041			
Humboldt		(45,385)	(45,385)				-				
Imperial		(46,055)	(46,055)	152,400	32,575	65,150	-	152,311			
Inyo		53,338	53,338				-				
Kern		964,030	964,030				-			15,000	
Kings	(15,346)		(15,346)				-			15,000	64,000
Lake		5,346	5,346				-	150,348		5,000	
Lassen		(20,110)	(20,110)				-	409,249			
Los Angeles*		12,743,138	12,743,138				-			85,000	928,000
Madera		(16,520)	(16,520)	114,000	39,205	78,409	-		170,233		
Marin	139,903		139,903				-			5,000	
Mariposa		10,837	10,837				-	125,377			
Mendocino		92,013	92,013				-			5,000	
Merced		(14,981)	(14,981)				-	402,383	303,023		32,000
Modoc		(16,430)	(16,430)				-	149,252			32,000
Mono		(24,084)	(24,084)				-				
Monterey		(128,088)	(128,088)				-				
Napa		(67,298)	(67,298)				1,521				32,000
Nevada		(7,211)	(7,211)				-			5,000	
Orange		(901,043)	(901,043)	167,497			-				
Placer		459,804	459,804	207,500			-	962,660		5,000	
Plumas		7,455	7,455				-				
Riverside	1,651,696		1,651,696				22,000		407,250	55,000	192,000
Sacramento		729,104	729,104				31,854				
San Benito		27,825	27,825				-	492,930			
San Bernardino		2,863,346	2,863,346	2,535,317	111,354	362,679	-		1,992,575		
San Diego		(429,238)	(429,238)	243,611	3,924	3,924	-				
San Francisco		209,944	209,944				-				
San Joaquin		523,396	523,396				-	1,327,361	279,845	30,000	32,000
San Luis Obispo	207,986		207,986	398,000			-				
San Mateo	(212,437)		(212,437)				-			10,000	

**FY 2006-2007 Proposed Allocation for Mandatory Security, Staffing Operating
Expenses for New Facilities, RAS Funding, and Screening Equipment Replacement**

Court System	Mandatory Security Costs			Staffing and Operating Costs for New Facilities (Non Security)				RAS Funding	One-Time Funding for Under- Resourced Courts Receiving New Judgeships	Maximum One-Time Funding for Magnetometers	Maximum One-Time Funding for X-ray Machines
	Confirmed	Unconfirmed	Total	One-Time	Ongoing	Annualized Ongoing	Annualization of FY 2005-06 Approved Costs				
Santa Barbara		40,562	40,562		11,637	18,759	-				
Santa Clara		(1,252,705)	(1,252,705)		4,744	56,930	-				
Santa Cruz	(12,757)		(12,757)	539,592	9,083		-	241,863	154,474	5,000	64,000
Shasta	266,104		266,104				-	18,706			
Sierra		(4,402)	(4,402)				-				
Siskiyou		(15,153)	(15,153)				-			10,000	
Solano		344,435	344,435	7,000			14,912			10,000	
Sonoma		16,327	16,327				25,572		133,072	10,000	96,000
Stanislaus		163,813	163,813				-		282,058		
Sutter		22,722	22,722				-	108,229			32,000
Tehama		24,374	24,374				-				
Trinity		(62,416)	(62,416)				-	29,881			
Tulare	78,804		78,804				-		557,871		
Tuolumne		(43,883)	(43,883)				-				
Ventura		1,011,115	1,011,115				(6,908)				
Yolo		(86,000)	(86,000)	26,480	27,269	27,269		293,543			
Yuba		(22,214)	(22,214)					19,675		5,000	32,000
Unallocated		7,136,395	7,136,395								
Total:	2,186,388	29,322,712	31,509,100	4,909,960	461,605	958,017	117,729	5,569,068	4,349,814	365,000	1,920,000

*includes an allocation of \$7,108,968 from L.A. counties increase in the MOE payment & \$5,634,170 from SAL

Recommended Screening Equipment to be Replaced in FY 2006–2007

Magnetometers						
Court	Facility/Location	Serial #/Court ID	Manufacturer	Model	Year	
Alameda	County Admin Bldg/Oakland	273987	Metorex	Metor 200	1998	
Contra Costa	725 Court Street, Martinez	290379	Metorex	Metor 200	1998	
Contra Costa	725 Court Street, Martinez	298654	Metorex	Metor 200	1998	
Contra Costa	725 Court Street, Martinez	297793	Metorex	Metor 200	1998	
Contra Costa	100 Glacier Street, Martinez	297787	Metorex	Metor 200	1998	
Contra Costa	45 Civic Street, Pittsburg	297798	Metorex	Metor 200	1998	
Contra Costa	45 Civic Street, Pittsburg	297739	Metorex	Metor 200	1998	
Contra Costa	100 37th Street, Richmond	298658	Metorex	Metor 200	1998	
Contra Costa	100 37th Street, Richmond	297786	Metorex	Metor 200	1998	
Contra Costa	640 Ygnacio Street, Walnut Creek	298656	Metorex	Metor 200	1998	
Contra Costa	640 Ygnacio Street, Walnut Creek	305134	Metorex	Metor 200	1998	
Fresno	Fresno, Main Courthouse, Main Lobby	285308	Metorex	Metor 200	1999	
Fresno	Fresno, Main Courthouse, Main Lobby	285780	Metorex	Metor 200	1999	
Fresno	Fresno, Main Courthouse, Main Lobby	314734	Metorex	Metor 200	1999	
Fresno	Fresno, Jail, Main Lobby	285087	Metorex	Metor 200	1999	
Fresno	Fresno, Juv. Del., Main Lobby	314750	Metorex	Metor 200	1999	
Fresno	Fresno, Juv. Dep., Main Lobby	285313	Metorex	Metor 200	1999	
Fresno	Fresno, Family Support	314735	Metorex	Metor 200	1999	
Kern	East Kern/Mohave	1935-122	Garrett	11652	1990	
Kern	East Kern/Mohave	24903		Sentrie AT	1992	
Kern	East Kern/Kern River	31722-248-PR		Sentrie AT	1995	
Kings	Hanford, Bldg A D5 & D6	E0062	Garrett	CS5000	1997	
Kings	Hanford, Bldg B D1	E0092	Garrett	CS5000	1997	
Kings	Hanford, Bldg B D2	E0050	Garrett	CS5000	1997	
Lake	Lakeport	1847-61	Garrett	11656	1991	
Los Angeles	Kenyon	941622001	Garrett	CS5000	1994	
Los Angeles	Beverly Hills	H7EC	Astrophysics	Sentrie LC	1995	
Los Angeles	Central Civil West	96064418	Garrett	CS5000	1995	

Magnetometers						
Court	Facility/Location	Serial #/Court ID	Manufacturer	Model	Year	
Los Angeles	Sylmar	29150	Garrett	CS5000	1995	
Los Angeles	Central Civil West	96064410	Garrett	CS5000	1996	
Los Angeles	Central Civil West	96064429	Garrett	CS5000	1996	
Los Angeles	Downey	96064437	Garrett	CS5000	1996	
Los Angeles	Glendale	96035140	Garrett	CS5000	1996	
Los Angeles	Inglewood	96062374	Garrett	PD6500	1996	
Los Angeles	Inglewood	96062375	Garrett	PD6500	1996	
Los Angeles	Lancaster Juvenile	96064588	Garrett	CS5000	1996	
Los Angeles	Lancaster Juvenile	96064432	Garrett	CS5000	1996	
Los Angeles	Mental Health	96064571	Garrett	CS5000	1996	
Los Angeles	Torrance		Garrett	CS5000	1996	
Los Angeles	Beverly Hills	990701	LC-Comm	Sentrie AT	1999	
Los Angeles	East Los Angeles	570669	Astrophysics	Sentrie LC	1998	
Los Angeles	Santa Clarita	21147485	Astrophysics	Sentrie LC	1998	
Marin	MSCO Courts Two		Metorex	Metor 200	1997	
Mendocino	Ukiah – Main Entrance	22351/211940	Metorex	Metor 200	1996	
Nevada	Truckee, Joseph Center		Metorex	Metor 200	1999	
Placer	Jail Court	21186901	Garrett	CS5000	1999	
Riverside	Indio – Annex – Dept 1A	4987405	Rapiscan	AMD	1996	
Riverside	Indio – Larson Justice Center	80961109	Checkgate	PC 8000	1996	
Riverside	Blythe	7987402	Rapiscan	AMD750	1998	
Riverside	Indio – Annex – Dept 1C	ALD750	Rapiscan	AMD750	1998	
Riverside	Indio – Larson Justice Center		Metorex	Metor 200	1998	
Riverside	Corona	96077740	Garrett	CS5000	Pre 1996	
Riverside	Hemet – Right Side Entrance	97052448	Garrett	MT5500	Pre 1996	
Riverside	Indio – Annex – Dept 1A	983002	Astrophysics	Sentrie LC	Pre 1996	
Riverside	Moreno Valley	11319	Astrophysics		Pre 1996	
Riverside	Murrieta – Southwest Justice Center	355656	Metorex	Metor 200	Pre 1996	
Riverside	Hall of Justice Criminal	334422	Metorex	Metor 200	Pre 1996	
San Joaquin	Stockton		Metorex	Metor 200	1996	
San Joaquin	Lodi Branch, Dept. L-2		Metorex	Metor 200	1996	

Magnetometers					
Court	Facility/Location	Serial #/Court ID	Manufacturer	Model	Year
San Joaquin	Manteca Branch, Dept M-1		Metorex	Metor 200	1996
San Joaquin	Manteca Branch, Dept M-2		Metorex	Metor 200	1996
San Joaquin	Tracy Branch, Dept T-2		Metorex	Metor 200	1996
San Joaquin	Juvenile Justice Center		Metorex	Metor 200	1996
San Mateo	Hall of Justice/Employee Entrance	9860336	CEIA	PMD2/PIZ	1998
San Mateo	Hall of Justice/Public Entrance	9860347	CEIA	PMD2/PIZ	1998
Shasta	Redding, Main Courthouse	60550 C	Metorex	Shadow	1995
Siskiyou	Yreka – Main Dept 2	12446	Garrett	Magnascanner	1996
Siskiyou	Weed	12161	Garrett	Magnascanner	1996
Solano	Solano Justice Center, Vallejo	50709	Astrophysics	Sentrie LC	1995
Solano	Law & Justice Center, Fairfield	45002	Astrophysics	Sentrie LC	1995
Sonoma	Courtroom 15	000156	Astrophysics	Sentrie	1995
Sonoma	Courtroom 16	000157	Astrophysics	Sentrie LC	1995
Yuba	120 5th Street	92704	Astrophysics	Sentrie LC	1998

X-Ray Machines

Court	Facility/Location	Serial #/Court ID	Manufacturer	Model	Year
Alameda	Rene C. Davidson/Oakland	951941	Rapiscan	Rap 20	1995
Alameda	County Admin Bldg/Oakland	60234N25	Rapiscan	Rap 520B	1997
Alameda	County Admin Bldg/Oakland	7983405	Rapiscan	Rap 520	1997
Alameda	Wiley W. Manuel/Oakland	7993102	Rapiscan	Rap 520B	1999
Alameda	Wiley W. Manuel/Oakland	7993101	Rapiscan	Rap 520B	1999
Butte	County Courthouse/Oroville	57812	Astrophysics	SYS215	1998
Contra Costa	45 Civic, Pittsburg	7991604	Rapiscan	Rap 520B	1998
El Dorado	1354 Johnson, South Lake Tahoe	55399	Astrophysics	SYS 215	1999
El Dorado	495 Main, Placerville	55391	Astrophysics	SYS 215	1999
El Dorado	3321 Cameron Park	55398	Astrophysics	SYS 222	1999
El Dorado	2850 Fairlane Ct, Placerville	55395	Astrophysics	SYS 215	1999
Fresno	Main Courthouse, Fresno	PX 2342	L-3	PX 2000	1996
Kings	Hanford, Bldg B	54813	Astrophysics	SYS 215	1996
Kings	Hanford, Bldg A	56783	Astrophysics	SYS 215	1997
Los Angeles	Central Civil West	7962507	Rapiscan	Rap 320	1996
Los Angeles	Central Civil West	7962509	Rapiscan	Rap 320	1996
Los Angeles	Los Padrinos	7962105	Rapiscan	Rap 3230	1996
Los Angeles	Mosk, Los Angeles	1962509	Rapiscan	Rap 320	1996
Los Angeles	Mosk, Los Angeles	7960301	Rapiscan	Rap 320	1996
Los Angeles	Mosk, Los Angeles	7960303	Rapiscan	Rap 320	1996
Los Angeles	Mosk, Los Angeles	7962503	Rapiscan	Rap 320	1996
Los Angeles	Mosk, Los Angeles	7962508	Rapiscan	Rap 320	1996
Los Angeles	Norwalk	7960402	Rapiscan	Rap 320	1996
Los Angeles	Santa Monica	7960304	Rapiscan	Rap 320	1996
Los Angeles	Beverly Hills	57461	Linescan	SYS 115	1997
Los Angeles	Downey	7974501	Rapiscan	Rap 320	1997
Los Angeles	Clara Shortridge Foltz	10636	Heimann	HiScan 2416	1997
Los Angeles	Huntington Park	57655	Astrophysics	SYS 115	1997
Los Angeles	Alhambra	58170	Astrophysics	SYS 115	1998
Los Angeles	Burbank	58984	Astrophysics	SYS 115	1998

X-Ray Machines

Court	Facility/Location	Serial #/Court ID	Manufacturer	Model	Year
Los Angeles	Culver	58200	Astrophysics	SYS 115	1998
Los Angeles	East Lake	58200	Astrophysics	SYS 115	1998
Los Angeles	East Los Angeles	59263	Astrophysics	SYS 115	1998
Los Angeles	Inglewood Juvenile	58704	Astrophysics	SYS 115	1998
Los Angeles	Metro	58704	Astrophysics	SYS 115	1998
Los Angeles	San Pedro	58980	Astrophysics	SYS 115	1998
Los Angeles	Santa Clarita	982021	Astrophysics	SYS 115E	1998
Los Angeles	Van Nuys – East	1088081	Astrophysics	11652	1998
Los Angeles	Whittier	57618	Astrophysics	SYS 115	1998
Los Angeles	Torrance	59339	Astrophysics	SYS 115	1999
Los Angeles	West Los Angeles	49489	Astrophysics	SYS 10	1999
Los Angeles	Airport	58828	Linescan	SYS 215	1999
Los Angeles	Edelman Children's Court	60204N31	Rapiscan	Rap 520 LA	2002
Merced	Old Courthouse, Dept, 1, 2, 3, Merced	45855	Scan Ray Corp	01-0410	1985
Modoc	Robert A. Barclay Justice Center	20406017044	Astrophysics	SYS 215E	1998
Napa	Criminal Courts Bldg, Napa	58457	Perkin Elmer	SYS 215	1998
Riverside	Riverside – Historic Civil	69430/08657	Heimann	HiScan 2416	1993
Riverside	Indio – Larson Justice Center	131123	Heimann	HiScan 2416	1996
Riverside	Riverside – Family Law	15672	Heimann	HiScan 6040	1997
Riverside	Riverside – Family Law	15673	Heimann	HiScan 6040	1997
Riverside	Corona	7983715	Rapiscan	Rap 520	1998
Riverside	Hemet	16106	Heimann	6040A	Pre 1996
San Joaquin	Stockton Courthouse	18792	Heimann	HiScan 604d	2000
Santa Cruz	Juvenile Courtroom, Santa Cruz	7002604	Rapiscan	Rap 519	2001
Santa Cruz	Jail Courtroom, Santa Cruz	60152N29	Rapiscan	Rap 519	1998
Sonoma	Hall of Justice – South	107	Astrophysics	215 EE	1994
Sonoma	Empire – Courtrooms 20 & 21	106	Astrophysics	215 EE	1995
Sonoma	Coddington – Courtrooms 18 & 19	108	Astrophysics	215 EE	1995
Sutter	463 2nd Street, Yuba City	7991703	Rapiscan	Rap 520B	1999
Yuba	215 5th Street	56163	L3-Comm	222	1998

FUND BALANCE (RESERVE) POLICY

BACKGROUND

Minimum financial accounting and reporting standards and guidelines have been established by the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB). The Trial Court Financial Policy and Procedures Manual, in compliance with these standards and guidelines, specifies that the trial courts are responsible for the employment of “sound business, financial and accounting practices” to conduct their fiscal operations. One important policy concerns fund balance or “reserves” that courts manage.

In 2006, the Legislature in the Supplemental Report of the 2006 Budget Act in Item 0250-101-0932 2(b) specified the following information on fund balance be submitted.

- (i) The Judicial Council shall report all approved allocations to the trial courts . . . by September 30, 2006. The report shall include a statement of the intended purpose for which each allocation was made. The report shall also include the policy governing trial court reserves.
- (ii) The trial courts shall report to the Judicial Council by September 15, 2007, all court revenues, expenditures, and reserves from the prior fiscal year for funding from all fund sources.

In addition to this specific reporting, Government Code section 77203 specifies that the Judicial Council has the authority to authorize trial courts to carry over unexpended funds from one year to the next. Consistent with this provision, there is a need for a clear policy that ensures courts are able to identify resources that address statutory and contractual obligations as well as maintain a minimum level of operating and contingency funds. This policy provides the necessary structure to ensure funds are available to maintain service levels for various situations that confront the trial courts including a late state budget.

PURPOSE

Government agencies/entities report the difference between their assets and liabilities as fund balance, which is divided into restricted and unrestricted components. The function of the restricted fund balance is to isolate the portion of fund balance that represents resources required to address statutory or contractual obligations and is not available for the following period’s budget. Unrestricted fund balance can serve as a measure of current available, uncommitted financial resources.

The purpose of this policy is to establish uniform standards for the reporting of fund balance by trial courts and to maintain accountability over the public resources used to finance trial court operations.

POLICY

As a publicly funded entity and as good public policy, trial courts must ensure that the funds allocated and received from the state and other sources are used efficiently and accounted for properly and consistently. The trial courts shall account for and report fund balance (“reserves”) in accordance with established standards, utilizing approved categories. Additionally, a fund balance can never be negative.

Fund Balance Categories

Restricted Fund Balance This is a fund balance that is not available for purposes other than contractual or statutory purposes.

Contractual - A restricted fund balance set aside for executed contractual commitments beyond the current year (e.g., multi-year contracts). Contractual obligations expected to be incurred in the current year should be budgeted and encumbered in the current year.

Statutory - A restricted fund balance that is unspent, receipted revenues that have a statutory restriction on their use.

Unrestricted Fund Balance This is a fund balance that is comprised of funds that are neither contractually nor statutorily restricted but may, by policy, require minimum amounts be maintained or identified.

Designated - The portion of unrestricted fund balance that is subject to tentative management plans beyond the current fiscal year. For each specific plan, trial courts must select a specific sub-category that is provided and provide a detailed description of the planned use of the fund balance. Specific plans that fall under the same sub-category should be designated separately.

Undesignated - The portion of fund balance that is neither restricted nor designated.

Designated Fund Balance

For designated fund balances that are based on estimates, particularly the operating and emergency, leave liabilities, and retirement fund balance categories, explanations of the methodology used to compute the designated amount must be provided. The trial court should fund the operating and emergency fund category prior to any other designated fund balance category being funded. In addition, if there is insufficient fund balance to designate total estimated liabilities, the shortfall should be provided in attached footnotes. Designations or planned uses include but are not limited to:

1. Operating and Emergency

Each court shall maintain a minimum operating and emergency fund balance at all times as determined by the following calculation based upon total actual expenditures of the previous fiscal year.

<u>Annual Actual Expenditures</u>
5 percent of the first \$ 10,000,000
4 percent of the next \$ 40,000,000
3 percent of expenditures over \$50,000,000

If a court determines that it is unable to identify in its annual budget the minimum operating and emergency fund balance levels identified above, the court shall immediately notify the Administrative Director of the Courts, or designee, in writing and provide a plan with a specific timeframe to correct the situation.

2. One-time facility – Tenant improvements Examples include carpet and fixture replacements.

3. One-time facility – Other Examples include leases paid by AOC on behalf of courts.

4. Statewide Administrative Infrastructure Initiatives

5. Local Infrastructure (technology and non-technology needs) Examples include interim case management systems and non-security equipment.

6. One-time employee compensation (leave liability, retirement, etc.)

Amounts included in this category are exclusive of employee compensation amounts already included in the trial court's operating budget and not in a designated fund balance category.

a. One-time leave payments at separation from employment and other estimated or planned leave payments. If amounts are not already accounted for in a trial court's operating budget, estimated one-time payouts for vacation or annual leave to employees planning to separate from employment within the current fiscal year should be in this designated fund balance category. This amount could be computed as the average amount paid out with separations or other leave payments during the last three years. Any anticipated non-normal or unusually high payout for an individual or individuals should be added to the average amount calculated.

In a footnote, the trial court should note the amount of their employees' currently earned leave balance that is more than the established designated fund balance. The amount would be determined by multiplying the hours of earned vacation or annual leave on the payroll records for each employee times their current salary rate minus the designated fund balance established

b. Unfunded pension liability. If documented by an actuarial report, the amount of unfunded pension liability should be included as a designated fund balance. Employer retirement plan contributions for the current fiscal year must be accounted for in the trial court's operating budget.

In a footnote, the trial court should note the amount of the current unfunded pension liability that is in excess of the established designated fund balance.

c. Unfunded retiree health care liability. If documented by an actuarial report, and appropriate, the amount of unfunded retiree health care liability should be included as a designated fund balance.

In a footnote, the trial court should note the amount of the current unfunded retiree health care liability that is in excess of the established designated fund balance.

d. Workers compensation (if managed locally). The amount estimated to be paid out in the current fiscal year.

7. Professional and consultant services Examples include human resources, information technology, and other consultants.

8. Security Examples include security equipment, and pending increases for security service contracts.

9. Other (required to provide detail)

Any other planned commitments that are not appropriately included in one of the above designated fund balance categories should be listed here with a description in sufficient detail to determine its purpose and requirements.

Section 68085(a) of the *Government Code* was amended by the Budget Act to read as follows:

68085. (a) (1) There is hereby established the Trial Court Trust Fund, the proceeds of which shall be apportioned ~~at least quarterly for the purpose of funding purposes authorized in this section, including apportionment to the trial courts to fund trial court operations,~~ as defined in Section 77003. ~~Apportionment payments may not exceed 30 percent of the total annual apportionment to the Trial Court Trust Fund for state trial court funding in any 90-day period.~~

(2) The apportionment payments shall be made by the Controller. The final payment from the Trial Court Trust Fund for each fiscal year shall be made on or before August 31 of the subsequent fiscal year.

~~—(3) If apportionment payments are made on a quarterly basis, the payments shall be on July 15, October 15, January 15, and April 15. In addition to quarterly payments, a final payment from the Trial Court Trust Fund for each fiscal year may be made on or before August 31 of the subsequent fiscal year.~~

~~—(4)~~

(A) Notwithstanding any other provision of law, in order to promote statewide efficiency, the Judicial Council may authorize the direct payment or reimbursement or both of actual costs from the Trial Court Trust Fund or the Trial Court Improvement Fund to fund ~~administrative infrastructure within the Administrative Office of the Courts, such as legal services, financial services, information systems services, human resource services, and support services, for one or more participating courts upon appropriation of funding for these purposes in the annual Budget Act. The amount of appropriations from the Trial Court Improvement Fund under this subdivision may not exceed 20 percent of the amount deposited in the Trial Court Improvement Fund pursuant to subdivision (a) of Section 77205. Upon prior written approval of the Director of Finance, the Judicial Council may also authorize an increase in any reimbursements or direct payments in excess of the amount appropriated in the annual Budget Act. For any increases in reimbursements or direct payments within the fiscal year that exceed two hundred thousand dollars (\$200,000), the Director of Finance shall provide notification in writing of any approval granted under this section, not less than 30 days prior to the effective date of that approval, to the chairperson of the committee in each house of the Legislature that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house of the Legislature that consider the annual Budget Act, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance, determine the costs of operating one or more trial courts upon the consent of participating courts. These paid or reimbursed costs may be for services provided to the court or courts by the Administrative Office of the Courts or payment for services or property of any kind contracted for by the court or courts or on behalf of the courts by the Administrative Office of the Courts. The amount of appropriations from the Trial Court Improvement Fund under this subdivision may not exceed 20 percent of the amount deposited in the Trial Court Improvement Fund pursuant to~~

subdivision (a) of Section 77205. The direct payment or reimbursement of costs from the Trial Court Trust Fund may be supported by the reduction of a participating court's allocation from the Trial Court Trust Fund to the extent that the court's expenditures for the program are reduced and the court is supported by the ~~program~~expenditure . The Judicial Council shall provide the affected trial courts with quarterly reports on expenditures from the Trial Court Trust Fund incurred as authorized by this subdivision. The Judicial Council shall establish procedures to provide for the administration of this paragraph in a way that promotes the effective, efficient, reliable, and accountable operation of the trial courts.

(B) As used in subparagraph (A), the term "costs of operating one or more trial courts" includes any expenses related to operation of the court or performance of its functions, including, but not limited to, statewide administrative and information technology infrastructure supporting the courts. The term "costs of operating one or more trial courts" is not restricted to items considered "court operations" pursuant to Section 77003, but is subject to policies, procedures, and criteria established by the Judicial Council, and may not include an item that is a cost that must otherwise be paid by the county or city and county in which the court is located.



California State Association of Counties
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Judicial Council of California
Administrative Office of the Courts ♦ Finance Division
455 Golden Gate Avenue
San Francisco, CA ♦ 94102
415/865-7945

DATE: February 21, 2006

TO: Bart Bohn, County Administrative Officer
Vicki L. Crow, County Auditor-Controller
Edward Sarkisian, Presiding Judge
Tamara Beard, Court Executive Officer

FROM: Rubin R. Lopez and Elizabeth Howard, Administration of Justice Staff
California State Association of Counties

Christine M. Hansen, Director and Chief Financial Officer
Administrative Office of the Courts

SUBJECT: Request for Equity Adjustment Pursuant to Government Code (GC) Section
68085.8(a) – **County of Fresno**

We have received your request for an equitable adjustment to correct inequities that result from the implementation of AB 139. We understand that this adjustment will correct the inequity occurring as a result of your agreement to use a portion of “undesignated fee” revenues to build a new court facility in Fresno. The AOC and CSAC have arrived at a joint decision regarding your request and agree that an equitable adjustment is appropriate. The amount of the adjustment is a maximum of \$500,000 per year for twenty years. The first adjustment will occur on the date of occupancy, estimated to be in August 2007. Of course, the actual amount and duration of the adjustment is conditioned upon the execution of a definitive written agreement between the court and the county that reflects the proposed terms and conditions that CSAC and the AOC relied upon in making this adjustment

The AOC and CSAC are still in the process of determining the appropriate mechanism for implementing this adjustment, including additional statutory amendments. Pursuant to GC 68085.8 (b), inequities may be corrected by one or more of the following mechanisms:

- (1) Adjustment of the reduction under subdivision (b) of Section 68085.7.
- (2) Adjustment of the amount of a county's obligation under subdivision (a) of Section 68085.6.
- (3) Adjustment of allocations to a trial court from the Trial Court Trust Fund under subdivision (a) of Section 68085.

- (4) If necessary, with agreement of the court and county, adjustments of the rights and duties of the parties under memoranda of understanding or other agreements or practices.

The adjustments under paragraphs (1) to (4), inclusive, may be temporary or permanent.

The AOC and CSAC understand that you have specific obligations related to the amounts affected by the equitable adjustment allowed pursuant to GC 68085.8. You will receive a future notification of the mechanism by which the adjustment under 68085.8 will be made for your county in a timely manner so that your obligations will not be negatively affected by this process.

As the process of implementing AB 139 and adjusting the MOE moves forward, the AOC and CSAC will continue to provide support and assistance as necessary as we continue working to resolve any issues that remain.

Again, if you have any questions or concerns about the MOE reduction or require assistance, please contact one of the following individuals.

Administrative Office of the Courts

Ruben Gomez

415-865-7686

ruben.gomez@jud.ca.gov

California State Association of Counties

Rubin Lopez

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Elizabeth Howard

916-327-7500, Ext. 537

ehoward@counties.org

cc: James Keene, Executive Director, California State Association of Counties
Kathleen Howard, Director, Office of Governmental Affairs, AOC
Eraina Ortega, Manager, Office of Governmental Affairs, AOC
Stephen Nash, Asst. Director of Finance, Office of Budget Management, AOC
John Judnick, Manager, Internal Audit Services, AOC
Ruben Gomez, Manager, Fiscal Administration and Technical Support Services, AOC
Steven Chang, Supervisor; Budget, Data and Technical Support Unit; AOC
Michael Fischer, Attorney, Office of the General Counsel, AOC
Brad Heinz, Attorney, Office of the General Counsel, AOC
Janet Grove, Attorney, Office of the General Counsel, AOC
Patrick O'Donnell, Attorney, Office of the General Counsel, AOC
Kim Davis, Director, Office of Court Construction and Management, AOC
Gisele Corrie, Manager, Office of Court Construction and Management, AOC



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Judicial Council of California
Administrative Office of the Courts ♦ Finance Division
455 Golden Gate Avenue
San Francisco, CA ♦ 94102
415/865-7945

DATE: February 8, 2006

TO: Demitrios O. Tatum, County Administrative Officer
M. Stephen Jones, County Auditor-Controller
Frank Dougherty, Presiding Judge
Kathie Goetsch, Court Executive Officer

FROM: Rubin R. Lopez and Elizabeth Howard, Administration of Justice Staff
California State Association of Counties

Christine M. Hansen, Director and Chief Financial Officer
Administrative Office of the Courts

SUBJECT: Request for Equity Adjustment Pursuant to Government Code (GC) Section
68085.8(a) – **County of Merced**

We have received your request for an equitable adjustment to correct inequities that result from the implementation of AB 139. We understand that this adjustment will correct the inequity occurring as a result of your agreement to use a portion of “undesignated fee” revenues to build a new court facility in Merced. The Administrative Office of the Courts (AOC) and the California State Association of Counties (CSAC) have arrived at a joint decision regarding your request and agree that an equitable adjustment is appropriate. The amount of the adjustment is up to a maximum of \$310,000 annually for thirty years. This adjustment is in addition to the MOE reduction you will receive pursuant to the notice sent by the AOC and CSAC on December 22, 2005. The first \$310,000 adjustment will occur in 2006 and the final adjustment will be made in 2036 pursuant to the terms of the Merced facility agreement between the court and county.

The AOC and CSAC are still in the process of determining the appropriate mechanism for implementing this adjustment, including additional statutory amendments. Pursuant to GC 68085.8 (b), inequities may be corrected by one or more of the following mechanisms:

- (1) Adjustment of the reduction under subdivision (b) of Section 68085.7.
- (2) Adjustment of the amount of a county's obligation under subdivision (a) of Section 68085.6.
- (3) Adjustment of allocations to a trial court from the Trial Court Trust Fund under subdivision (a) of Section 68085.

- (4) If necessary, with agreement of the court and county, adjustments of the rights and duties of the parties under memoranda of understanding or other agreements or practices.

The adjustments under paragraphs (1) to (4), inclusive, may be temporary or permanent.

The AOC and CSAC understand that you have specific obligations related to the amounts affected by the equitable adjustment allowed pursuant to GC 68085.8. You will receive a future notification of the mechanism by which the adjustment under 68085.8 will be made for your county in a timely manner so that your obligations will not be negatively affected by this process.

As the process of implementing AB 139 and adjusting the MOE moves forward, the AOC and CSAC will continue to provide support and assistance as necessary as we continue working to resolve any issues that remain.

Again, if you have any questions or concerns about the MOE reduction or require assistance, please contact one of the following individuals.

Administrative Office of the Courts

Ruben Gomez

415-865-7686

ruben.gomez@jud.ca.gov

California State Association of Counties

Rubin Lopez

916-327-7500, Ext. 513

rlopez@counties.org

Elizabeth Howard

916-327-7500, Ext. 537

ehoward@counties.org

cc: James Keene, Executive Director, California State Association of Counties
Kathleen Howard, Director, Office of Governmental Affairs, AOC
Eraina Ortega, Manager, Office of Governmental Affairs, AOC
Stephen Nash, Asst. Director of Finance, Office of Budget Management, AOC
John Judnick, Manager, Internal Audit Services, AOC
Ruben Gomez, Manager, Fiscal Administration and Technical Support Services, AOC
Steven Chang, Supervisor; Budget, Data and Technical Support Unit; AOC
Michael Fischer, Attorney, Office of the General Counsel, AOC
Brad Heinz, Attorney, Office of the General Counsel, AOC
Janet Grove, Attorney, Office of the General Counsel, AOC
Patrick O'Donnell, Attorney, Office of the General Counsel, AOC
Kim Davis, Director, Office of Court Construction and Management, AOC
Gisele Corrie, Manager, Office of Court Construction and Management, AOC



California State Association of Counties
1100 K Street ♦ Suite 101
Sacramento, CA ♦ 95814
916/327-7500



Judicial Council of California
Administrative Office of the Courts ♦ Finance Division
455 Golden Gate Avenue
San Francisco, CA ♦ 94102
415/865-7945

DATE: February 6, 2006

TO: Thomas Mauk, County Executive Officer
David E. Sundstrom, County Auditor-Controller
Nancy Wieben Stock, Presiding Judge
Alan Slater, Court Executive Officer

FROM: Rubin R. Lopez and Elizabeth Howard, Administration of Justice Staff
California State Association of Counties

Christine M. Hansen, Director and Chief Financial Officer
Administrative Office of the Courts

SUBJECT: Request for Equity Adjustment Pursuant to Government Code (GC) Section
68085.8(a) – **County of Orange**

We have received your request for an equitable adjustment to correct inequities that result from the implementation of AB 139. We understand that this adjustment will correct the inequity occurring as a result of your agreement to use a portion of “undesignated fee” revenues to remodel and expand an existing court facility in Laguna Niguel. The AOC and CSAC have arrived at a joint decision regarding your request and agree that an equitable adjustment is appropriate. The amount of the adjustment is approximately \$6.2 million annually for a period of 30 years. The first \$6.2 million adjustment will occur in 2006. This adjustment is in addition to the MOE reduction you will receive pursuant to the notice sent by the AOC and CSAC on December 22, 2005. Of course, the actual amount and duration of the adjustment is conditioned upon the execution of a definitive written agreement between the court and the county that reflects the proposed terms and conditions that CSAC and the AOC relied upon in making this adjustment

The AOC and CSAC are still in the process of determining the appropriate mechanism for implementing this adjustment, including additional statutory amendments. Pursuant to GC 68085.8 (b), inequities may be corrected by one or more of the following mechanisms:

- (1) Adjustment of the reduction under subdivision (b) of Section 68085.7.
- (2) Adjustment of the amount of a county's obligation under subdivision (a) of Section 68085.6.

(3) Adjustment of allocations to a trial court from the Trial Court Trust Fund under subdivision (a) of Section 68085.

(4) If necessary, with agreement of the court and county, adjustments of the rights and duties of the parties under memoranda of understanding or other agreements or practices.

The adjustments under paragraphs (1) to (4), inclusive, may be temporary or permanent.

The AOC and CSAC understand that you have specific obligations related to the amounts affected by the equitable adjustment allowed pursuant to GC 68085.8. You will receive a future notification of the mechanism by which the adjustment under 68085.8 will be made for your county in a timely manner so that your obligations will not be negatively affected by this process.

As the process of implementing AB 139 and adjusting the MOE moves forward, the AOC and CSAC will continue to provide support and assistance as necessary as we continue working to resolve any issues that remain.

Again, if you have any questions or concerns about the MOE reduction or require assistance, please contact one of the following individuals.

Administrative Office of the Courts

Ruben Gomez

415-865-7686

ruben.gomez@jud.ca.gov

California State Association of Counties

Rubin Lopez

916-327-7500, Ext. 513

rlopez@counties.org

Elizabeth Howard

916-327-7500, Ext. 537

ehoward@counties.org

cc: James Keene, Executive Director, California State Association of Counties
Kathleen Howard, Director, Office of Governmental Affairs, AOC
Eraina Ortega, Manager, Office of Governmental Affairs, AOC
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Gisele Corrie, Manager, Office of Court Construction and Management, AOC



California State Association of Counties
1100 K Street ♦ Suite 101
Sacramento, CA ♦ 95814
916/327-7500



Judicial Council of California
Administrative Office of the Courts ♦ Finance Division
455 Golden Gate Avenue
San Francisco, CA ♦ 94102
415/865-7945

DATE: February 8, 2006

TO: Susan A. Mauriello, County Administrative Officer
Mary Jo Walker, County Auditor-Controller
Heather Morse, Presiding Judge
Alex Calvo, Court Executive Officer

FROM: Rubin R. Lopez and Elizabeth Howard, Administration of Justice Staff
California State Association of Counties

Christine M. Hansen, Director and Chief Financial Officer
Administrative Office of the Courts

SUBJECT: Request for Equity Adjustment Pursuant to Government Code (GC) Section
68085.8(a) – **County of Santa Cruz**

We have received your request for an equitable adjustment to correct inequities that result from the implementation of AB 139. We understand that this adjustment will correct the inequity occurring as a result of your agreement to use a portion of “undesignated fee” revenues to build a new court facility in Watsonville. The Administrative Office of the Courts (AOC) and California State Association of Counties (CSAC) have arrived at a joint decision regarding your request and agree that an equitable adjustment is appropriate. The amount of the adjustment is \$75,000 per year for 30 years. This adjustment is in addition to the MOE reduction you will receive pursuant to the notice sent by the AOC and CSAC on December 22, 2005. The first \$75,000 adjustment will occur in 2006 and the final adjustment will be made in 2036. Of course, the actual amount and duration of the adjustment is conditioned upon the execution of a definitive written agreement between the court and the county that reflects the proposed terms and conditions that CSAC and the AOC relied upon in making this adjustment.

The AOC and CSAC are still in the process of determining the appropriate mechanism for implementing this adjustment, including additional statutory amendments. Pursuant to GC 68085.8 (b), inequities may be corrected by one or more of the following mechanisms:

- (1) Adjustment of the reduction under subdivision (b) of Section 68085.7.
- (2) Adjustment of the amount of a county's obligation under subdivision (a) of Section 68085.6.

- (3) Adjustment of allocations to a trial court from the Trial Court Trust Fund under subdivision (a) of Section 68085.
- (4) If necessary, with agreement of the court and county, adjustments of the rights and duties of the parties under memoranda of understanding or other agreements or practices.

The adjustments under paragraphs (1) to (4), inclusive, may be temporary or permanent.

The AOC and CSAC understand that you have specific obligations related to the amounts affected by the equitable adjustment allowed pursuant to GC 68085.8. You will receive a future notification of the mechanism by which the adjustment under 68085.8 will be made for your county in a timely manner so that your obligations will not be negatively affected by this process.

As the process of implementing AB 139 and adjusting the MOE moves forward, the AOC and CSAC will continue to provide support and assistance as necessary as we continue working to resolve any issues that remain.

Again, if you have any questions or concerns about the MOE reduction or require assistance, please contact one of the following individuals.

Administrative Office of the Courts

Ruben Gomez

415-865-7686

ruben.gomez@jud.ca.gov

California State Association of Counties

Rubin Lopez

916-327-7500, Ext. 513

rlopez@counties.org

Elizabeth Howard

916-327-7500, Ext. 537

ehoward@counties.org

cc: James Keene, Executive Director, California State Association of Counties
Kathleen Howard, Director, Office of Governmental Affairs, AOC
Eraina Ortega, Manager, Office of Governmental Affairs, AOC
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Patrick O'Donnell, Attorney, Office of the General Counsel, AOC
Kim Davis, Director, Office of Court Construction and Management, AOC
Gisele Corrie, Manager, Office of Court Construction and Management, AOC

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("*Memorandum*") is made and entered into effective July 1, 2005 ("Effective Date"), by and between the Superior Court of California, County of Fresno ("*Court*") and the County of Fresno ("*County*").

RECITALS

WHEREAS, pursuant to Government Code Section 70311, the County is currently responsible for providing necessary and suitable facilities for the Court; and

WHEREAS, pursuant to Government Code Section 70321, the Judicial Council will be assuming responsibility for providing facilities for the Court; and

WHEREAS, the County and the Court are jointly responsible for implementing programs to enhance the collection of court imposed fines and fees; and

WHEREAS, the County and the Court entered into that certain Agreement By And Between The County Of Fresno And The Fresno County Superior Court dated May 2, 2000 ("2000 Agreement"), as amended by a Memorandum of Understanding between the Court and the County dated August 15, 2002 ("2002 Memorandum") (collectively, the "Agreement") pursuant to which the Court imposes civil assessments in accordance with California Penal Code Section 1214.1 against defendants who failed, after notice and without good cause, to appear in court for any proceeding authorized by law (the "Civil Assessment Program"); and

WHEREAS, among other things, the Agreement provided that net revenue derived from the Civil Assessment Program would be deposited into a Civil Assessment Trust Fund ("CATF") for exclusive use for court facilities and related needs; and

WHEREAS, the County and the Court wish to terminate the Agreement as of the Effective Date of this Memorandum, and enter into a new agreement regarding civil assessments collected on and after July 1, 2005 ("Civil Assessments") dedicated to the purpose of funding court facilities and related needs; and

WHEREAS, the administration of justice and access to the courts would be improved by leasing a new court house in the City of Selma ("Selma Courthouse") and the construction of a new building to house court rooms and county facilities in a new juvenile delinquency court facility to be occupied by the Court and the County located at the American Avenue Juvenile Justice Campus ("Juvenile Courthouse"); and

WHEREAS, the County is prepared to borrow the cost of constructing the Juvenile Courthouse; and

WHEREAS, the County desires to be reimbursed for the cost of constructing the portion of the Juvenile Courthouse occupied by the Court through funding from the State of California ("State") which funding is the subject of a separate agreement(s) between the County, Court, and the Judicial Council; and

WHEREAS, the County and the Court agree that it is in the best interests of the public and an appropriate use of the Civil Assessments to fund certain costs incurred by the County in leasing and making tenant improvements to the Selma Courthouse and to construct that portion of the Juvenile Courthouse that will be occupied by the County;

NOW, THEREFORE, for good and valuable consideration the sufficiency of which is acknowledged, the parties hereto agree as follows:

AGREEMENT

1. AGREEMENT REGARDING CIVIL ASSESSMENT PROGRAM

1.1 Termination of Prior Agreement. The Agreement is terminated as of the Effective Date and replaced in its entirety by this Memorandum.

1.2 Operation. The Court shall continue to administer the Civil Assessment Program pursuant to Penal Code section 1214.1. The Court shall be solely responsible for the collection and distribution of all revenue from the Civil Assessment Program and the management and operation of the Civil Assessment Program, subject to the distribution provisions set forth in section 2, below. The Court shall have exclusive decision making authority with respect to the Civil Assessment Program. The Court may, but shall not be obligated to, retain the services of a third party vendor to collect all Civil Assessments. The Court shall be solely responsible for supervising any third party vendor(s) so selected for the collection of Civil Assessments.

1.3 Net Revenue. The Court will deposit Net Revenue derived from Civil Assessments into the CATF. For purposes of this Memorandum, "Net Revenue" means total revenue actually collected from Civil Assessments in the amount of \$250.00 per Civil Assessment minus allowable costs provided pursuant to Penal Code section 1463.007 as follows: (i) all Court costs of management, administration and collection, including vendor commissions and fees (ii) all other costs and expenses incurred by the Court in connection with the Civil Assessment Program and administration of the CATF, and (iii) any and all refunds paid from the CATF. The parties agree that revenue from Civil Assessments in excess of \$250 per Civil Assessment shall be the exclusive property of the Court and shall not otherwise be subject to the terms of this Memorandum.

2. DISTRIBUTION OF NET REVENUE FROM THE CIVIL ASSESSMENT PROGRAM

All Net Revenue deposited in the CATF shall be distributed by the Court on a monthly basis, to the extent and in the order set forth below, as follows:

(a) To the County, to be used solely for the payment of the County's annual amortized costs of tenant improvements constructed at the Selma Courthouse based on a 5 year level amortization.

(b) To the County, to be used solely for the annual lease payments for the Selma Courthouse to the extent such annual lease payments exceed the annual amount paid by

the County in 2001 for the cost of leasing, maintaining, operating, and related utilities of the former, now closed, Selma Courthouse.

The total Net Revenue distributed to the County each year pursuant to subsections (a) and (b) herein shall not exceed the amount per applicable year set forth in Exhibit A attached hereto and incorporated herein by this reference.

(c) To the Court, for the Court's exclusive use related to Court facility needs, as determined by the Court in its sole discretion, all remaining Net Revenue until such time as the County's obligation to make Debt Service payments as set forth in (d) below begins.

(d) To the County, beginning on the date the first monthly payment of principal and interest is due by the County for the monthly debt service due on the bonds used to finance the construction of the Juvenile Courthouse (the "Debt Service") and ending on the last due date of the County's monthly Debt Service payment and, in any event, for a period not to exceed 20 years, an amount equal to the lesser of: (i) fifty percent (50%) of all remaining Net Revenue in the CATF, or (ii) that portion of the monthly Debt Service payment that is attributable to the portion of the Juvenile Courthouse occupied by the County. For example, if the County occupies 30% of the Juvenile Courthouse, then the portion referred to above would be 30% of the monthly Debt Service payment. All funds received by the County pursuant to this subsection (d) must be used by the County solely to pay the Debt Service as set forth herein. Notwithstanding anything to the contrary set forth in this subsection (d), in no event shall the Court receive less than 50% of all remaining Net Revenue after distributing each month all amounts due in subsections (a) and (b) above and in no event shall the County receive more than \$500,000.00 per Court fiscal year from Net Revenue to pay Debt Service.

(e) Fifth, to the Court, the remainder of all Net Revenue for the Court's exclusive use related to Court facility needs, as determined by the Court in its sole discretion.

3. TERM/TERMINATION/LIABILITY

3.1 Term. This Memorandum shall be effective as of July 1, 2005, and shall remain in effect until terminated in accordance with section 3.2 of this Memorandum.

3.2 Termination by the Court. The Court may terminate this Memorandum by giving written notice to the County in the manner specified in section 5.6 below if:

(a) A court of competent jurisdiction determines that this Memorandum violates any statute, law, regulation, or State Rule of Court.

(b) The County materially breaches this Memorandum which includes, without limit, any use by the County of any funds distributed from the CATF for any purpose whatsoever other than as set forth in section 2(a), (b), or (d) above.

(c) The County no longer bears, or is liable for, the costs set forth in section 2 (a), (b), or (d) above.

3.3 Limitation of the Court's Liability. The County acknowledges and agrees that the sole source for payment by the Court to the County of the costs described in section 2(a), (b), and (d), above with respect to the Selma Courthouse and the Juvenile Courthouse are the proceeds from Net Revenue available in the CATF distributed in accordance with section 2 above. In the event that Net Revenue distributed as provided for in section 2 above is inadequate to cover the costs described in section 2, or in the event that the State shall prescribe other uses for such Civil Assessments that take precedence over the terms of this Memorandum, or in the event that this Memorandum is terminated under any of the provisions of section 3.2, the Court shall have no liability to pay any sum to the County with respect to the costs so described.

4. DISPUTE RESOLUTION

4.1 Application. Whenever the County and the Court disagree as to any matter governed by this Memorandum, the dispute resolution process discussed in this Section 4 shall govern.

4.2 Request for Meeting. If after fifteen (15) days, the Court and the County cannot resolve any dispute, either party may give the other party a written request for a meeting between the Court Executive Officer and the County Administrative Officer for the purpose of resolving a disagreement between the parties. If such meeting is requested, the meeting shall be held within ten (10) business days of the receipt of such request. If the meeting fails to occur or fails to resolve the disagreement, nothing in this Memorandum shall preclude either party from exercising its legal remedies.

4.3 Resolution of Disputes. If a dispute between the parties regarding the interpretation or performance of this Memorandum is not resolved in accordance with section 4.2 above, the dispute shall be submitted to non-binding mediation in the City of Fresno, California.

5. MISCELLANEOUS

5.1 Entire Agreement. This Memorandum constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous modifications, agreements, memorandums, term sheets, proposals, negotiations, representations, and commitments, both oral and written, between the parties.

5.2 Amendment. This Memorandum may not be modified or amended, except by written instrument executed by the parties.

5.3 Time of Performance. Unless specifically stated to the contrary, all references to days herein shall be deemed to refer to calendar days. If the final date for payment of any amount or performance of any act falls on a Saturday, Sunday or holiday, such payment shall be made or act performed on the next succeeding business day.

5.4 Further Assurances. Each party hereto agrees to cooperate with the other, and to execute and deliver, or cause to be executed and delivered, all such other instruments and documents, and to take all such other actions as may be reasonably requested of it from time to time, in order to effectuate the provisions and purposes of this Memorandum.

5.5 Time. Time is of the essence of each and all of the provisions of this Memorandum.

5.6 Notices. Any notice required or permitted hereunder must be in writing and will be deemed delivered when (i) personally delivered; (ii) mailed by depositing such notice in the United States mail, first class postage prepaid; or (iii) sent by reputable overnight delivery service; addressed as follows or to such other place as each party hereto may designate by subsequent written notice to the other party:

If to the Court: Superior Court of California, County of Fresno
1100 Van Ness Avenue
Fresno, CA 93724-0002
Attn: Court Executive Officer

If to the County: County of Fresno
Fresno County Administrative Office
2281 Tulare Street
Fresno, CA 93721
Attn: County Administrative Officer

5.7 Waiver. Any waiver of any term of this Memorandum must be in writing and executed by an authorized representative of the waiving party and shall not be construed as a waiver of any succeeding breach of the same or other term of this Memorandum.

5.8 Binding. This Memorandum shall be binding upon the successors of the Court and the County.

5.9 Counsel and Drafting. Each party hereto, by its due execution of this Memorandum, represents to the other party that it has reviewed each term of this Memorandum with their counsel, or has had the opportunity for such review with their counsel. No party shall deny the validity of this Memorandum on the ground that such party did not have the advice of counsel. Each party hereto has had the opportunity to participate in drafting and preparation of this Memorandum. The provisions and terms of this Memorandum shall be interpreted in accordance with the plain meaning thereof, and shall not be construed in favor or against either party because such party drafted or did not draft any such provision.

5.10 Counterparts. This Memorandum may be executed in one or more counterparts, all of which together shall constitute one and the same agreement.

5.11 Compliance with Laws. Notwithstanding any provision to the contrary contained in this Memorandum, the parties agree that no provision of this Memorandum shall require any party to violate any applicable statute, rule of law or regulation. In addition to the foregoing, the Court shall not be required to violate any Rule of the Court or any policy binding on the Court.

5.12 Severability. The provisions of this Memorandum are separate and severable. Should any court hold that any provision of this Memorandum is invalid, void or unenforceable, then the validity of other provisions of this Memorandum shall not be affected or impaired thereby.

5.13 Governing Law. This Memorandum shall be construed under the laws of the State of California, without regard to its conflict of law provisions.

5.14 Certification of Authority to Execute this Memorandum. The County and the Court certify that the individual(s) signing below on behalf of the party has authority to execute this Memorandum on behalf of the party, and may legally bind the party to the terms and conditions of this Memorandum.

5.15 Indemnity; Hold Harmless. The parties waive Government Code Section 895.6. In the event that the Court and the County are each found liable for injuries or damages to a third party or parties by reason of a breach or failure to perform by each of them of a respective duty or obligation undertaken pursuant to this memorandum, the Court and the County shall share such liability in proportion to their respective fault, and if one of them shall satisfy the total liability in an amount in excess of its proportionate share, it shall be entitled to contribution from the other in the amount of the excess paid. In addition, the County agrees to indemnify, defend (with counsel satisfactory to the Administrative Office of the Courts), and hold harmless the Court, its judges, subordinate judicial officers, court executive officers, court administrators, agents, representatives, contractors, volunteers and employees from any and all losses, costs, liabilities and damages, including reasonable attorneys' fees and costs (individually, a "Claim" and collectively, "Claims") arising from, related to or in connection with, in whole or in part, the County's breach of its obligations under this Memorandum or the County's violation of any applicable law, rule or regulation.

5.16 Audit. The Court, or its representatives, upon reasonable notice to the County, may audit the County's payment and use of the amounts set forth in section 2 above. The County agrees to maintain all records applicable to such use and payment until the expiration of four years from the termination of this Memorandum or the date upon which the final payment of any sums set forth section 2 is made by the County, whichever is longer.

5.17 Third-Party Beneficiary. This Memorandum is entered into for the benefit of the Court, the County, the Administrative Office of the Courts, the Judicial Council, and the State. No other person or entity is intended to be or shall be deemed a direct or incidental third-party beneficiary of this Memorandum, nor shall any other person or entity have any right regarding this Memorandum.

[The remainder of this page is intentionally left blank]

5.18 Approval of Administrative Office of the Courts. The parties acknowledge that this Memorandum requires the approval of the Administrative Office of the Courts in accordance with Government Code section 68085.5(d)(2).

5.19 Survival. The provisions of sections 3, 4, and 5 shall survive any termination of this Memorandum.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date first written above in Fresno, California.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO

By: _____
_____, Presiding Judge

COUNTY OF FRESNO

By: _____
_____, Chair, Board of Supervisors

APPROVED:

ADMINISTRATIVE OFFICE OF THE COURTS

By: _____
William C. Vickrey, Administrative Director of the Courts

Exhibit A

<u>Year of Lease</u>	<u>Amount</u>
1	\$61,970.72
2	\$62,762.72
3	\$63,574.52
4	\$64,406.61
5	\$65,259.51
6	\$ 9,520.01
7	\$10,416.09
8	\$11,334.56
9	\$12,276.00
10	\$13,240.98